The American
Political Science Review

Vol. VI FEBRUARY 1912 No. 1

THE PROGRESSIVE UNFOLDING OF THE POWERS OF THE UNITED STATES

PRESIDENTIAL ADDRESS, EIGHTH ANNUAL MEETING OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION

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When the Constitution of the United States was pending for ratification, its supporters, in their public utterances, were disposed to minimize the powers which it conferred. This was the general tone of the *Federalist*. How far they might reach, indeed, was a question that only the future could fully answer. A set of traditions and usages and precedents must first grow up, under the Constitution, but outside of it.

Every one saw that much would depend on the views of Washington. Every one looked forward with confidence to his unanimous election as the first President. Every one saw that it would be left to him to decide whether he should be re-elected. His refusal to stand for a third term founded a usage that has become as controlling as an express constitutional provision.

Washington took care that the judiciary should be composed of men who believed that Congress was not confined to the exercise of the powers expressly granted to it.

It is a remark of one of our associates, Mr. Herbert Croly,

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that, when Americans talk about a government by laws, they really mean a government by lawyers. A solid truth lies behind the epigram.

The Constitution of the United States being the supreme law of the land, any statute inconsistent with it cannot be law. If such a statute be relied on to support a disputed claim of right, and the parties to the controversy cannot agree that it is not law, that must ultimately be determined by the courts. All the higher courts are manned by lawyers. Their decisions therefore are the decisions of lawyers, and a government by laws that are expounded by lawyers is, in effect, a government by them.

It is such, in another sense, because in the executive and legislative departments of both state and nation, the influence of lawyers has proved largely predominant. Statistics have recently been published showing that during a long period in the history of the United States eighty-nine per cent of the cabinet officers of the United States were of the legal profession. Most of our Presidents have belonged to it, and a very large proportion of the Governors of our states. The lawyers are always well represented in Congress and the state legislatures. The London *Times* recently stated that there are now 212 of them in the Senate of the United States and the House of Representatives. According to this, one out of every 640 lawyers in the United States is in one or the other house. In the body whose business it is to make laws, naturally those have the greatest influence who know best, or ought to know best, what are the laws already existing.

The bar, then, in executive and legislative office, are in a position to confirm the authority of judicial decisions; and all their traditions and education tend to make them assume that what courts conclude as to any question is a finality.

John Marshall found rules of action in the Constitution of the United States which a very large part of the people had not thought were contained there. During the life of a whole generation he kept finding such rules, and each thus took the place of a new section or article.

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In this way was developed the power of Congress to charter private business corporations; to control navigation within a state, when part of a voyage is out of the state; to govern the territories with little regard to the provisions of the Constitution concerning acts done in a state of the United States; and the right of the United States, by treaty, to dictate law to the states, as to the tenure of lands by foreigners.

Meanwhile Congress moved more slowly in exercising its power to give the Constitution a practical exposition. In the main it kept within undisputed bounds, until the outbreak of the Civil War.

One prominent exception was that in respect to commerce on the lakes, which Congress, in 1845, put on the same footing, as to federal remedies, as commerce on the sea. The Supreme Court, in upholding this Act at the expense of overruling one of its former decisions, held that admiralty jurisdiction in the United States was wider than that in England, and covered all waters navigable in fact, whether subject to the ebb and flow of the tides or not.

Another, passed in 1842 (Rev. Stat., §753), in consequence of the McLeod Case, was one granting a summary remedy in the federal courts to one taken into custody under state authority, in violation of a treaty or the law of nations.

The Civil War brought Acts authorizing the issue of legal tender currency; taxing the state banks of issue out of existence in order to make room for national banks; authorizing the President to suspend the privilege of the writ of *habeas corpus*; and making his orders a defence for any act of a military character done during the war.

These were all measures designed to support the perpetuity of the Union against strong attack. But there soon followed legislation having no connection with the national defence.

First came the Act of 1866, which put all interstate railroads, to a certain extent, beyond the control of a state government. This was the first substantial regulation by the United States of commerce by land. Interstate telegraphing received attention next.

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Unquestioned powers of the United States, which had long been suffered to lie dormant, were thus exercised, and the authority of the states so far forth displaced. Next came a far greater and deeper inroad upon it. In 1868 there was a radical revolution in our constitutional theories.

Up to that time there were no guaranties of individual right for the enforcement of which, as against state action, there could be an appeal to the United States. By the Fourteenth Amendment to the Constitution of the United States such an appeal was given.

This brought the states at once into subjection, to this extent, to an exterior sovereignty. Their police powers shrank correspondingly. The bounds of political independence and local autonomy were narrowed and a large portion of what had been the inherent sovereignty of each disappeared forever.

This constitutional change of relations made it natural that statutory changes in similar lines should follow. They followed fast.

In dividing the powers of commercial regulation between the United States and the states, Congress now began to take a larger and ever larger share. The Courts moved in the same direction, though more slowly.

One effective mode of commercial regulation is by taxation. In 1872, the Supreme Court of the United States, speaking through the Chief Justice, unanimously held that taxation by a state for the privilege of doing interstate business there, was permissible.[1] In 1888, the same court unanimously held that such a tax was not permissible, because it burdened what Congress had by its silence declared should be free to all.[2]

By a similar reversal of judicial opinion, the general power of Congress to lay taxes was, as to the right, extended, though by the effect of practical conditions, decreased.

That power was given to Congress very unwillingly by most of the states, and only on the condition of uniformity, except as to direct taxes. Those, it was generally assumed, were to be confined to a few subjects, and in 1880 the Supreme Court of

[1] Osborne *v.* Mobile, 16 Wall. 479. [2] Leloup *v.* Mobile, 127 U. S. 640.

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the United States expressly held that these were only polls and real estate.[3] But in 1895 the same Court decided that they also comprehended personal estate and the income from any kind of property.[4] As Congress has unquestioned power to lay duties, imposts and excises, there would seem to be nothing on which it cannot lay its hand, except the means of sustaining the governments of the states.

It follows that it can tax the property of citizens of a young and poor state in a proportion determined by the amount of its population, not by the value of what is subjected to the burden. Take, for illustration, a tax on all incomes of private individuals, in excess of $5,000, derived from investments. Such a state might have but a hundred citizens having such an income, while one of the older states might have five thousand, and the whole country a hundred thousand. If each of the two states described had an equal population, say of one-fiftieth of the population of the United States, and the total tax were $10,000,000, the capitalist in the young state would pay a fiftieth of the entire tax on all the hundred thousand, that is $2,000, while each of the capitalists in the older states would pay but $40. Enormous injustice would thus result; but the law would be quite within the powers of Congress.

For the first eighty-three years of their history the United States never attempted to exercise the right of taking property for public use. They asked the state in which the property might be situated to take it, and repaid its cost. In 1872 came the first Act of Congress in which the right of condemnation was asserted.[5]

In the same year it was made a crime, punishable in the United States courts, to use the mails in aid of a scheme to defraud, and under this statute District Attorneys can draw indictments against the promoters of any corporation who, they think, are puffing its securities by false representations.[6]

[3] Springer *v.* U. S., 102 U. S. 586, 602.
[4] Pollock *v.* Farmers' Loan & Trust Co., 157 U. S. 429, 579; 158 U. S. 601.
[5] Kohl *v.* United States, 91 U. S. 307.
[6] U. S. Rev. Stat. 4580; 25 Stat. 873; Durland *v.* United States, 161 U. S. 306.

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The Interstate Commerce Act of 1887, followed up by the Sherman Act of 1890, has revealed powers which the United States have always possessed, but never before thought it wise to exercise.

The Supreme Court has recently decided that cars on any railroad which constitutes part of a route of interstate commerce must be constructed and equipped in the manner required for such commerce, although in fact used only in commerce wholly confined to a single state.[7]

This looks towards a unification of all American commercial rules by sweeping them into the hands of Congress.

Its power of taxation may also be used to further such a result. If a state engages in trade, though in an endeavor to better conditions of internal police, or from adopting principles of socialism, the United States can tax it, precisely as they would a private individual. Under a decision of the Supreme Court, pronounced in 1905, South Carolina was thus forced to pay license fees to the United States in the character of a liquor dealer.[8]

The right to abrogate a franchise for cause naturally belongs to the sovereign granting it. It was, until recently, deemed to belong to that sovereign exclusively.[9] But in cases in equity under the Sherman Act, the Courts of the United States, apparently assume that they can virtually dissolve a corporation, which constitutes a combination by which it has been violated, although its franchises came from a state. One of the prayers in the suit against the Steel Company is for such a dissolution. The Act does not give such jurisdiction in terms and, if it exist, it must be implied from a general power to prevent and restrain violation of its provisions.[10]

Proceeding in the same line, state corporations were made, in 1909, subject to an annual Federal tax, which is in substance a tax on their franchises.

[7] U. S. *v.* Southern Railway, October Term, 1911.
[8] South Carolina *v.* United States, 199 U. S. 437.
[9] Hart *v.* Boston, Hartford & Erie R. R. Co., 40 Conn. 524, 530.
[10] 26 U. S. Stat. 209, Sec. 4.

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They are thus also, incidentally, brought under the inspection and visitation of the United States, and the federal Commissioner of Corporations is given large powers of investigation in these directions.

This bureau is but one of many among which, since 1870, the newly developed functions of the general government have been distributed. Each has a single head in close touch with the head of a Cabinet department and having the direction of numerous subordinates.

During the same period, the authority of minor executive officials generally has been steadily and rapidly advanced by statutory enactment.

Custom-house officers have been, and may lawfully be, invested with authority to impose fines against shipowners and collect them by refusing the ship a clearance, until they are paid, with no opportunity for a judicial review.[11] Such petty officials as immigration inspectors have been, since 1892, made final judges of the facts on which may turn the deportation of an alien, who claims that he is entitled to remain by lawful treaty, or even that he is an American citizen.[12]

In 1892 also Congress forbade dumping on tidewater flats or any wharfing out into navigable waters, except by permission of the Secretary of War.[13]

The courts, in defining their own jurisdiction, have shared in the general movement towards emphasizing or enlarging the functions of the United States.

It would seem to follow from the principle of the sovereignty of each state that its internal law must be finally declared and enforced by its own authorities, except so far as the Constitution of the United States may otherwise provide. Most of the internal law of most of the states is customary and unwritten. To know what this common law on any subject is, one looks

[11] Oceanic Navigation Co. *v.* Stranahan, 214 U. S. 321, 339; United States *v.* Grimaud, 220 U. S. 506.

[12] Fong Yue Ting *v.* United States, 149 U. S. 698; United States *v.* Ju Toy, 198 U. S. 253.

[13] 27 U. S. Stat. 110; 28 Stat. 363; 30 Stat. 1151.

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naturally to the decisions of its higher courts. In 1840, however, under the lead of Justice Story, the Supreme Court of the United States held that there were some questions of general jurisdiction belonging to the domain of common law which the courts of the United States could decide for themselves, although they might thus differ from those of the state in which the particular question arose.[14] Actions are thus repeatedly sustained in the Federal courts which, if brought between the same parties in a state court, would have failed.

In 1906, the Supreme Court held that it had jurisdiction in a suit by Kansas against Colorado, to determine whether water was diverted from the Arkansas river in Colorado, to the enjoyment of which Kansas had a vested right.

Mr. Justice Brewer, in giving the opinion, took the ground that as the grant of legislative powers to Congress was one of enumeration, while that of the judicial power of the United States was not, the latter embraced "all controversies of a justiciable nature arising within the territorial limits of the Nation, no matter who may be the parties thereto." In measuring judicial functions, he continued, the question was, not whether a power claimed to exist in the courts of the United States was granted by the Constitution, but whether it was excluded "by any limitation expressed in the Constitution on the general grant of national power."[15]

It seems to me that these positions are not fully tenable, and that it was not necessary to decide them in order to support the judgment rendered. But, thus far, they have not been disaffirmed. If they are well founded, the judicial power of the United States would apparently extend to any justiciable controversy arising in any of the United States, although pertaining to a mere matter of local concern.[16]

The people are becoming impatient with the control of the state authorities by inferior courts of the United States.

[14] Swift *v.* Tyson, 16 Peters 1, 19.

[15] Kansas *v.* Colorado, 206 U. S. 46, 83.

[16] See article on The Extent of the Judicial Power of the United States, in the *Yale Law Journal* for November, 1908.

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An Act of Congress passed in 1910 is a striking illustration of this feeling.[17]

No District Court can henceforth issue a temporary injunction to prevent the execution of a state statute on the ground that it is unconstitutional, unless the application for it has been granted by three judges, one of whom shall be a Justice of the Supreme Court or a Circuit Judge, nor unless notice be first given to the Governor and Attorney General of the state.

Another sign of the same impatience is the action taken at the annual Conference of Governors of States, in September, 1911, in regard to an appeal from a Circuit Court of the United States soon to be heard in the Supreme Court of the United States. The judgment of the Circuit Court was that the Minnesota railroad rate law was unconstitutional because it trenched on the authority of the Interstate Commerce Commission. A committee of five Governors (according to the press reports) was appointed, to appear before the Supreme Court and file briefs in behalf of all the states represented at the Conference as a protest against the decision appealed from.

This committee cannot file such briefs without asking the leave of the Court. To move for such leave seems to put the states, in behalf of which it is sought, in a position that could hardly have been contemplated by the framers of the Constitution. On the one hand, they appear as suppliants for the favor of being heard: on the other, they appear as representatives of a combination of the chief executives of a majority of the states, seeking to file a solemn and united protest against a certain disposition of a civil cause to which no state is a party. If the appointment of such a committee for such a purpose was within the authority of the assembled Governors, it looks much like an agreement or compact between states, which the Constitution of the United States forbids: if it was not within their authority, the action taken would seem not well advised: but in any event it testifies to a general popular feeling that the regulation of interstate commerce by Federal authority has been pushed beyond due bounds.

[17] 36 U. S. Stat. 539, §17.

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The treaty-making power of the United States has thus far been exercised with much moderation. But it extends to every subject concerning which one sovereign can negotiate with another sovereign, except so far as the Constitution or character of the United States forbid.[18]

The President and two-thirds of the Senate could probably thus agree with any nation on a form of marriage between its citizens, which shall be sufficient in law if followed in any part of the United States, and a similar form which shall establish the marriage relation between two American citizens, if followed by them in the territory of the other party to the treaty, however inadequate it might be, according to the statutes of the particular states here, to which they might belong. Such statutes would be superseded by the treaty.

Divorce might, perhaps, in the same way, be regulated by a reciprocal convention, specifying the conditions of jurisdiction, and the causes for which it could be granted, in the courts of one country, to citizens of the other.

Conventions framed by successive international Conferences at the Hague, held from 1893 to 1904, now exist between many of the powers of Europe, making nationality, instead of domicile, the general source of civil *status*. Could not the United States, by treaty with these powers, impose that doctrine upon each of the United States?

Each state may now decide for itself as to the weight which it will give to a foreign judgment. Could not the United States by treaties negotiated with foreign powers bind it to concede conclusive force to it, or conclusive force on the basis of reciprocity?

Large amounts of bonds of some of our states, on which there has been a default, are held in Europe. Their owners claim that the United States should see to it that these obligations are discharged, or else pay them out of the national treasury. Would it not be possible in law for the United States to submit this claim to arbitration, with the result that the Unites States should be held bound to pay the bonds, with recourse for indem-

[18] Geofroy *v.* Riggs, 133 U. S. 258, 266.

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nity to the defaulting state? Such a course of proceeding is highly improbable, and would be apt to lead to results dangerous to the stability of our institutions. But the question before us is whether such possibilities are not wrapped up in the treaty-making power and may not be unfolded in a future generation.

I have spoken of the unfolding of the powers of the United States by force of direct legislation. They have unfolded hardly less under the mere influences of national growth. These have necessarily multiplied the occasions for the exercise of federal authority and the extension of federal influence.

The President of the United States at first had but few offices to appoint, either directly or indirectly.

He had but four heads of departments, and each of them had a comparatively narrow field. Now he has nine and they have long been consolidated into a cabinet, sharing with him the responsibilities of government. They are ready defenders of his policies and promoters of his political ambitions. Instead of a few hundreds of Federal offices there are as many and more tens of thousands, and the adoption of a Civil Service Examination policy became long since an absolute necessity.

The courts of the United States had at first little business to do, and the highest of them hardly anything. Now the Supreme Court of the United States finds it difficult to keep up with the increase of its docket, although its jurisdiction has been shared since with a newly created court of appeals, and is now mostly confined to causes involving questions of constitutional construction. Many of these would until 1868 have been beyond its power.

The powers of the United States were unfolded in arithmetical progression until 1861, and since then in geometrical progression.

How far will this process of expansion go on?

Let us consider a few of the measures that probably might be adopted.

Would it not be an admissible regulation of interstate commerce to forbid any person to engage in it, without a

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certain equipment, involving the possession of a considerable capital?

Or to forbid any corporation to engage in it, without a capital stock of say $10,000,000?

Or to give a monopoly of any particular kind of such commerce to a particular person or class of persons?

New York apprehended the possibility of such action in 1788, when in her vote to ratify the Constitution of the United States she insisted on the necessity of an amendment to it providing that "the Congress do not grant monopolies, or erect any company, with exclusive advantages of commerce." Similar action was taken by Massachusetts, New Hampshire and North Carolina.

Would it not, again, be an admissible regulation to provide that no goods should be the subject of interstate commerce until they had been inspected by Federal officials? Or unless, if manufactured goods, they had been manufactured at an establishment conducted in a way approved by Federal authority? Long steps in these directions have indeed already been taken by the Acts of Congress as to "Pure Food," and the inspection of packing houses.[19]

In a recent work by one of my predecessors in this office,[20] statutes going even farther than this are pronounced necessary to square our political system with the economic conditions of the times.

I should not agree with all his conclusions, but the Constitution of the United States is, in my opinion, flexible enough to bear a construction supporting legislation by Congress in such directions far in advance of anything hitherto attempted.

The Supreme Court of the United States has recently found one point of flexibility, which had long lain undiscovered. There may be another of quite a different character: there is, if the courts choose to say so.

In arranging the mechanism of the Constitution, three possible safety valves were provided.

[19] 34 U. S. Stat. 674, 1260, 768.

[20] Frank J. Goodnow, *Social Reform and the Constitution.*

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One is calculated to prevent an explosion in consequence of the pressure of public opinion in favor of placing undue burdens on property. It is the provision against taking property without due process of law, which has been adjudged to invalidate a tax by the state of the owner's domicile on his personal property, kept elsewhere.[21]

The two others are calculated to prevent an explosion in consequence of the pressure of public opinion in favor of legislation in new fields of political science. They are, first, the guaranty by the United States to each state of a republican form of government, and, second, the provision that Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; when taken in connection with the preamble, stating that among the purposes of the Constitution are to establish justice, and to provide for the common defence and to promote the general welfare.

A guaranty imports the existence of a principal obligation. The primary duty rests upon the state. Its authority must be exercised under republican forms. Its judges, under their oath to support the Constitution of the United States, must recognize and respect, in the decision of causes, this fundamental obligation. Arising by necessary implication, it stands on the same footing as would an express provision of the Constitution of the United States that every state in the Union shall always maintain a republican form of government, and do no act inconsistent with the essential nature of a republic.

The construction of the "common defence and general welfare" phrase, first used in the Articles of Confederation, which has been generally accepted has been that laws to that end must be confined to taxation, and to taxation for purposes such as fall within one, or a group of, the specially enumerated powers of Congress. It is quite within the range of possibility that the courts will abandon this position (which the Supreme Court has never, I believe, formally adopted), and hold that any law is valid which Congress deems appropriate to provide for the

[21] Union Transit Co. *v.* Kentucky, 199 U. S. 194, 202, 211.

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common defence and to promote the general welfare, provided it contravene no particular provision of the Constitution.

Gouverneur Morris, in preparing the final report of the Committee on Style, in the Convention of 1787, gave this clause the form of a distinct and separate grant, and while it was immediately, on the objection of Roger Sherman, put back into its previous and present position, there have never been wanting those who have contended that Morris was right in his view of its legal effect. The point was made by Richard H. Lee in October, 1787; considered by the Federalist, and discussed at great length by Madison in 1830.[22] It presents a disputable question obvious to every one who reads the section. The framers of the Constitution no doubt inserted this clause out of abundant caution, to cover taxation to pay the war debt incurred under the old government. But what did the plain people understand by it, when they voted to ratify the work of the Convention of 1787? How this question may be answered by the Supreme Court of another century, no one can now be sure.

The present court has significantly said, this year, that the grant to Congress of power to regulate interstate commerce has resulted in securing "a new welfare, a welfare which transcends that of any state," or rather one "constituted of the welfare of all the states." [23]

Abraham Baldwin of Georgia stated on the floor of Congress, in 1799, that the members of the Convention of 1787, of whom he was one, did not anticipate that Congress would exercise each of the powers that were conferred upon it, but thought their mere existence would sufficiently obviate abuses that might otherwise be feared.[24] His anticipation has certainly been so far realized, that Congress has refrained from doing many things which it can do.

Consider for a moment the undeveloped possibilities of its powers under the XIVth Amendment. Suppose a state vio-

[22] Farrand, Records of the Federal Convention, III, 483, 379.
[23] Oklahoma *v.* Kansas Gas Co., 221 U. S. 229, 255.
[24] Farrand, Records of the Federal Convention, III, 380.

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lates one of its prohibitions. Could not Congress make such violation by a state official, whether the Governor or one of his subordinates, a crime?

Could not Congress provide a special form of procedure, under which any state statute might be summarily and directly impeached as unconstitutional before the Supreme Court of the United States, and the President directed, should the court support the attack, to issue a proclamation that the law is void?

We need not disturb ourselves over the possibility that Congress may abuse its powers so as avowedly to promote injustice. As James Wilson observed in the Pennsylvania Convention in 1787, it is not to be presumed that it will ever prove "an association of demons." [25]

But it well may happen that it may extend the exercise of its powers unwisely. The success of our scheme of government depends on preserving the sovereign control of each state over most of the relations of its inhabitants, whether between themselves or with others. We have too vast a country to be governed wholly, or even largely, by a central authority. Our rulers would be too remote from most of the people affected by their action to understand their wants or to act under the full force of those restraints that ought always to accompany representative responsibility. Popular sentiment, thus far, has generally indicated a repugnance to unnecessary extensions of federal authority.

But it is from the future unfolding of executive, rather than of legislative power, that the perpetuity of our government can be said to remain in doubt.

A President of the United States declared, if correctly reported, in a public address, within the last few years, that he was for the Constitution, when it preserved the people's rights, but not when it perpetuated the people's wrongs.

After all allowances for the liberty of the platform, such an utterance from such an officer of state indicates the existence of a real danger. It is one that the framers of the Constitution foresaw. Soon after their work was done, a lady, meeting

[25] Farrand, III, 163.

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Franklin, said, "Well, Doctor, what have we got, a republic or a monarchy?" "A republic," replied he, "if you can keep it."[26]

Hamilton predicted [27] the coming of a time "when every vital interest of the state will be merged in the all-absorbing question of who shall be the next President." Half of next year will witness such a merger.

The existence of so great an office brings with it a certain danger. It is that this chief magistrate—who, during his term of office, is an emperor in all but name,—may from urging revolutionary changes in his communications to Congress, or by some stretch of his executive or military authority, come to play the part of a dictator.

It is, in my judgment, only a remote possibility, but that science which we in this Association profess warns us that great powers are apt sometimes to be abused, and that the fathers were right when they declared that eternal vigilance was the price of liberty.

[26] Farrand, Records of the Federal Convention, III, 85. [27] 26. 409.

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DIPLOMATIC AFFAIRS AND INTERNATIONAL LAW 1911

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The year 1911 was characterized during its latter half by unusually high tension among the great powers of Europe. Latent rivalries and ambitions came to the surface in such a way as not only to endanger and even directly to disturb the peace of the world at the present time but also to threaten even graver complications for the future. Although in the controversies of the year interests of prime importance were not involved, yet the continued suspense and friction resulted in a very decided aggravation of international rivalry, and served especially to render more acute the chronic mutual suspicion between Great Britain and Germany. Consequently, notwithstanding all the efforts which had been made to bring about a better understanding and eventually to secure mutual engagements with respect to a limitation of armaments and a reduction of the tremendous burden of military preparation, there has developed a situation which is for the present very unpromising. In fact new efforts are being made still further to increase armaments, and the temper in which European nations find themselves is only too favorable to further exertions in this direction.

The Powers of Europe

The year opened peacefully enough and for the time being relations between Great Britain and Germany seemed to tend towards permanent improvement. In March the German Reichstag, notwithstanding a somewhat negative declaration on the part of the Chancellor, passed a resolution favoring an understanding regarding limitations of armament and arbitration. In May Mr. Lloyd-George encouraged the British public

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in hopes for a reduction of expenses in behalf of the navy. But trouble had already commenced. In March the French Government decided to undertake a military expedition into the interior of Morocco and especially to Fez. The German Government considered this a departure from the treaty of Algeciras and therefore as creating a new situation in Morocco which called for a diplomatic readjustment. This position was taken notwithstanding the fact that the German Government had in the agreement of February 9th, 1909, recognized that France had special political interest in Morocco. At first the German Government maintained an expectant attitude, but when France made no indication of a desire to give Germany concrete satisfaction on account of the changed condition of affairs, Germany on July 2d, sent a war vessel to the Moroccan port of Agadir. According to the declarations of the German Government this was done only for the purpose of protecting the interests of German subjects at that point, but it was also a technical move to indicate that Germany believed that she possessed certain unliquidated rights in Morocco. Whether or not it was intended as a threat of war in case France should not give the desired satisfaction, it was so understood both in France and Great Britain, and caused great excitement in the public opinion of these two countries. The British Government evidently believed that the Germans were ready to take serious action if necessary, and on July 21st, Mr. Lloyd-George declared in a public speech that peace at the cost of having British interest ignored would be a humiliation.

Diplomatic negotiations went on between Germany and France for months under the cover of secrecy. Public opinion excited by the danger of war, in dark as to the actual interests involved, was kept at a high tension. Finally on November 4th, as a result of all these painstaking negotiations and complicated moves and countermoves, two agreements were signed at Berlin by the representatives of France and Germany. In the agreement regarding Morocco the German Government renews its declaration of 1909 in the following form: "The imperial German Government declares that, since in Morocco

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it pursues only economic interests, it will not impede France in its purpose to aid the Moorish Government in the introduction of all administrative, judicial, economic, financial, and military reforms, which may be requisite for the good government of the realm." This undertaking is further specified in additional articles. The French Government on its part makes an explicit declaration in favor of the "open door." In article 4, the French Government declares "that being determined to adhere to the principle of complete freedom of commerce in Morocco, it will not permit any unequal treatment in customs, duties, taxes and other dues, nor in the making of tariffs for railways and river transportation, as well as with respect to transit trade." In these negotiations therefore the German Government placed itself squarely on the principle of the open door, and secured from the French Government a complete, specific, and unequivocal recognition of that policy.

The second agreement deals with the compensations accorded by the French Government to Germany in return for the abstention of the latter from any political interference in Morocco. The territory ceded consists of parts of the French Congo Colony, comprising 375,000 square kilometers. The strips of territory are so arranged as to connect the German colony of Kamerun with the system of navigation of the Congo River, and also so as to surround Spanish Guinea on the land side completely with German territory. As a part of this rectification of boundaries Germany ceded to France that portion of Northern Kamerun which lies between the Logone and Chapi Rivers. Great disappointment was manifested by the German public when these results of such long and painful negotiations became known. The economic value of the ceded territories seemed too questionable to have been the object of so much international work and worry. When the Chancellor made his statement to the Reichstag on November 9th, he was received with expressions of open dissatisfaction on all sides. Subsequent explanations before the Finance Commission of the Reichstag, however, led to a clearer appreciation of the difficulties which had confronted the German Government.

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The statement made by Sir Edward Grey in the House of Commons debate, on November 26th, while in every way correct, was so cool towards Germany as to add materially to the belief in the active hostility of Great Britain, which was based on the knowledge of the readiness of the British government to aid France on the Continent with a contingent of 150,000 troops, and on the sea with an attack upon the German fleet. The acute feeling of disappointment of the German people resulted therefore in increased bitterness against Great Britain rather than against France.

While the negotiations between Germany and France were going on, Italy startled the world by issuing an ultimatum to Turkey which practically asked for the immediate session of Tripolis. As a ground for this surprising action Italy set forth, *inter alia*, the grievances that it had been treated by Turkey with scant respect, that her reclamations had not been considered, that the Italian flag had been violated in the Red Sea, and that Italians in Turkish dominions had been subjected to molestations. On the day immediately following the issuance of this unacceptable ultimatum, war was declared by Italy and the coast towns of Tripolis were occupied. Determined resistance, however, met the Italian forces as soon as they attempted to penetrate into the interior. Up to the end of the year the occupation was only such as could be directly protected by the guns of the Navy. Notwithstanding the incomplete character of the conquest the Italian Government on November 5th issued a manifesto declaring that Tripolis had been annexed to the Italian Kingdom. The Parliament engaged in academic discussions as to whether now, after this formal annexation, the Turks and Arabs who offered any resistance were not to be treated as rebels rather than as belligerents. Meanwhile, the military measures of security taken by the Italian army in the occupied places were of relentlesss severity. These circumstances together with the ruthless manner in which the war itself was commenced rendered Italy subject to the sharpest criticism by the public opinion of the entire world, to which, of course, answer was made to the effect that other nations too had broken treaties

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or disregarded international law, and that they also had been charged with cruelty in their warfare. During the early stages of the war Italy showed a disposition to extend hostilities to the Balkan coast and to the Aegean Sea. But the Chancellaries of Europe, apprehensive that such action would result in a general conflagration, prevailed upon Italy to restrict her military actions to the African coast. The incidental reprisals mutually taken by the warring powers were not unusually severe, but Italian imports into Turkey were, by decree of September 29th, forced to pay a duty of 100 per cent, while Italy similarly increased the charges upon Turkish imports. As a compensation for benevolent neutrality in the presence of the African enterprise of Italy, France was permitted to occupy the Oasis of Djanet, while Great Britain, through her protectorate over Egypt as an intermediary, occupied the Bay of Solum in Cytenaica.

While conquests, protectorates, and "compensations" of more or less value were thus falling to the Western European powers, Russia on her part, was exerting herself to establish her control in Northern Persia. Russian foreign policy never seemed to admit any consequences of the severe defeat suffered by Russian arms in the Japanese war. The forward policy has continued uninterrupted in all directions, but especially in Mongolia and Persia. Nor was European Turkey entirely neglected. When, early in the year, Turkey remonstrated with Montenegro on account of the assistance lent by that principality to the revolutionary movement in Albania, the Russian Government quite decidedly took the part of Montenegro. The Italian war seemed to give an opportunity to Russia, on her part, to bring pressure to bear upon Turkey. As a matter of fact, *demarches* were made by the Russian Ambassador at Constantinople, looking to the opening of the Dardanelles to Russian men of war, in contravention of the provisions of the Treaty of Berlin. But the European powers, including Great Britain, were not favorable to such a modification of the treaty at this time; so the Russian efforts were discontinued. On the plea that the Russian Ambassador had acted entirely

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upon his own initiative in bringing the matter to the attention of the Turkish Government, his action was disavowed, and he was recalled soon after.

With respect to Persia, Russia had cleared the way for action by the well-known treaty concluded with Great Britain in 1907, by which Great Britain virtually turned over Northern Persia to Russia, on condition that her own rights should be considered paramount in Southern Persia. This was the price paid at the time for Russian friendship, which Great Britain craved on account of her fear of German ambitions. It amounted to a complete reversal of British policy in Asia, and its result can in the normal course of events only be the total absorption of Persia by Russia, together with access to the Persian Gulf. These results began to establish themselves as facts in the past year. Over against Germany, Russia secured herself by an agreement made in December, 1910, and formally signed August 19th, 1911, which provides for eventual connections between the German Bagdad Railway and the Persian railways, supposedly to be constructed by Russia. Persia meanwhile was the victim of international difficulties, which made her especially susceptible to the dangers of outside interference. The parliamentary régime was new and not yet completely established in authority. With support from Russian sources, the dethroned Shah attempted to regain power, nor was there a lack of other revolutionary movements. Meanwhile the Persian Government was trying honestly to establish improved methods of administration. Mr. Morgan Shuster, an American citizen, had been engaged as financial adviser, without, however, in any way making the American Government a party in Persian affairs. He considered the Persian Government, as a representative of the Persian people, his master and endeavored with success to put the financial affairs of the country upon a sound basis. The Nationalist party pinned their hope to his efforts for reforming and improving the administration. The complete success of his work would of course have meant the creation of a strong Government and of stable and prosperous conditions, while Russia needed for her purposes governmental

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weakness, administrative corruption, and general instability, so that she might in due time appear as the restorer and might have abundant reasons for interference. She interfered nevertheless, and in the ultimatum which in November she directed to Persia, the principle demand was for the dismissal of the American financial adviser. As this ultimatum was backed by a military force which could not be resisted by Persia in her present condition, it was finally accepted by the Mejliss. During this same period Great Britain had further occupied Southern Persia with Indian troops in order to maintain her rights and to protect the routes of commerce. According to the arrangement at present arrived at, the Persian Government is not to employ any foreign advisers without the consent of Russia and Great Britain. This provision shows that the administrative division of Persia is almost an accomplished fact; for the coöperation of the two powers in Persia can now be based only upon the principle of Russian preponderance in the North, and British preponderance in the South. Only a very rash person would ten years ago have dared to express the opinion that Great Britain would become the instrument of delivering Persia into the hands of Russia, and that at a time when Persia had just adopted free institutions which will of course be immediately suppressed by Russia as they have been definitely suppressed in Finland this past year, even with the connivance and assistance of a subservient Duma.

The happenings in Morocco, Tripolis and Persia all derive a deeper meaning in so far as they contribute elements in the dramatic struggle for world power. In this movement, viewed in its entirety, two fundamental national needs are operating, the desire of Russia for an outlet to the sea, and the need of Germany for room for her expanding millions. If we add to this the fixed purpose of England to maintain in an unimpaired way her preponderance on the sea, we have the elements which are active in every great European diplomatic movement or struggle. The engagement of Russian interest in Persia, with the eventual possibility of gaining access to the sea by that route, to a certain extent releases pressure on Constantinople.

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From whatever point we may view the Persian situation, the ultimate conflict between Russia and Great Britain at that point seems inevitable. By sacrificing Persia to gain a temporary understanding with Russia, Great Britain has placed herself in an untenable position in Southern Persia. When Russia made her railway agreement with Germany it was already surmised that she was beginning to draw the conclusions imposed by her new position. Her present relations with respect to Turkey are complicated. As a Mohammedan power Turkey could scarcely be expected to give Russia countenance in her Persian enterprise; yet undoubtedly the Ottoman Government would agreeably feel the lifting of a mill-stone weight when Russian pressure is shifted to Persia, and a better understanding between Turkey and Russia might be the result.

The future relations of Turkey to other European powers are at present a matter of much uncertainty. German diplomacy had secured a position of great influence at the Porte, which not even the introduction of the parliamentary régime and the action of Austria, respecting Bosnia and Herzegowina could shake. Germany seemed upon the whole the power from which Turkey could most confidently hope to secure moral and material support. The sudden action of Italy, however, placed Germany in a very difficult position. It demonstrated the futility of alliances in controlling the political action of allies except in a very few specific matters. *Italia fará da se* was always true. Italian adhesion to her allies had always been subject to many specific exceptions. But through her Tripolitan adventure Italy placed the German Government in the dilemma of either openly treating the Triple Alliance as repudiated, or of seeming to abandon the Turkish friend who had looked to Germany for some sort of assistance in exactly the kind of contingency which had now presented itself. The German Government chose the latter alternative; although there were many reasons for dissatisfaction with Italy, open faithlessness on her part could not be charged. In her present action she was indeed coöperating with Great Britain and France rather than with her closer allies. But as the Triple Alliance covers only European affairs

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she was not precluded from this course of action, no matter how disagreeable it might be to Germany. Moreover there was always the chance that a common boundary with France in North Africa might not result in permanent friendship between these two powers. But the unwelcome fact remained that when in defiance of every right, a province was torn from Turkey, Germany could not or did not come to the rescue. As international friendships are solely the result of choice based on considerations of present convenience and utility, it would therefor not be surprising, should Turkey ask herself whether coöperation with Great Britain, France or Russia, or two or all of them, might not yield greater advantages than coöperation with Germany.

Everything is therefore in uncertainty with respect to the future constellations of the powers. It has become clear that the value of general alliances can easily be overestimated and that only definite coincidences of national interest leading to engagements upon specific points can really be counted upon. But one fact has unhappily resulted from all the turmoil of 1911 with unmistakable clearness: the hostility between Great Britain and Germany has become far more bitter and sharp than ever before. Germany, hemmed in on all sides, yet pulsating with energy and life, feels a vital need for territorial expansion. Through the combinations arranged by Great Britain between Russia, France and Italy, Germany sees all these powers advancing in their control over territories which to her seem valuable and desirable, while she herself, notwithstanding her national needs and her undeniable strength and energy, encounters a wall of rock whenever she tries to undertake a forward movement; or at best she is allowed to acquire territories in Central Africa in which residence is impossible for white men, and the economic development of which exacts great initial sacrifices. When they ask themselves to what this constant defeat of their aspirations is due, the German people now say to themselves "it is English diplomacy and the English navy that block the way." When Chancellor Bethmann-Hollweg spoke of concrete manifestations of good will which

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the German people expect as an earnest of the protestations of British statements, he was expressing the thought of the nation. The diplomacy of Great Britain during the last few years has successfully surrounded Germany with impediments, while all other nations, including Russia, have been encouraged to help themselves freely to territories which are not sufficiently guarded. Thus has resulted the dilemma which is the most serious threat for the peace of the world at the present time; Great Britain must preserve and maintain her naval supremacy for her own security; but Germany sees in that very navy the barrier which is constantly interposed when she sees an opportunity for expanding her territorial dominion.

When we look at the individual events of 1911 about which public opinion excited itself, none of them seem serious enough to warrant the decision of war. Italy was censured, aside from the general ruthlessness of her manner of proceeding, because for a tract of territory which would not repay even the initial expenditure of military preparation, she brought on a war, the cost of which in blood and treasure can not be calculated. We have pointed out above the three cardinal principles which are operative in European politics, yet none of these principles ever emerges in its fulness. Nations advance little by little, and even when an empire like Morocco is at stake, responsible statesmen have to say to themselves that it would be indefensible to make war for such a cause. War between great powers has become such an enormous undertaking that causes which formerly would have resulted in immediate hostilities seem disproportionally small at present. Real danger of such war however exists, when year after year incidents take place which all point in the same direction. Through such causes public feeling accumulates, which some time may break forth in a demand for war, even when the actual occasion may be small. Whatever may be the occasion in such a case, the cause will lie deeper. Thus it is difficult to avoid the conclusion that a duel between Germany and Great Britain is inevitable, unless the latter country shows a greater disposition to take into account the forces and vital necessities of the German

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empire and people. If the people of Great Britain on their part feel that Germany is plotting to destroy the British Empire in order to fall heir to some of its colonies, that is one of the exaggerations which are so likely to be generated when international animosities occur. Such a thought may have been uttered by irresponsible individuals (Pan-Germanists), but the German people have no desire for such attempts and enterprises; should, however, Great Britain always stand in the way of German development, a supreme test of strength is likely to result.

The money market of the world reflected the tension that existed in public opinion. The situation was of course aggravated by the uncertainty which for a time reigned in American securities. In France and Germany, large amounts of capital were withdrawn during the crisis, and a great deal of French capital invested in Germany was called back. As the year was otherwise one of great industrial and commercial activity, the effect of these disturbances resulted rather in preventing rapid development than in actually causing the cessation of enterprises. On the whole the nervousness caused by the danger of war had only superficial effects. In Germany it was demonstrated that the dependence of German industry on French funds had been somewhat exaggerated as, notwithstanding the withdrawal of French capital, German industrial enterprise went on without mishap. It is notable that during this time large amounts of money were borrowed in the United States for use in Germany. The United States had a large foreign credit on account of the fact that our exports had increased by the enormous and totally unprecedented amount of 300 million dollars in one year, while our imports had actually decreased. The credits thus accumulated were in part allowed to remain in Europe, while moreover, as already stated, large European loans were negotiated in the United States. Thus America with her surplus assisted in tiding over the European money market at this somewhat critical period.

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The Far East

While the events with which European diplomacy was concerned in 1911 were important, the transformation which was begun in China was of still greater moment. With surprising rapidity the revolutionary organization gained point after point, so that by the end of the year fourteen provinces had a republican form of government and the position of the Manchu rulers appeared untenable. While this movement concerns primarily the internal affairs of China, its importance to international relations is so evident that it must be noted in this place.

A strong undercurrent of national feeling had manifested itself in China for some years. The Government, unable to resist the reform movement, had acceded to a comprehensive program of constitutional changes which were to lead up to the creation of a national parliament in 1913. But while thus in a way amenable to public opinion, the Government made numerous mistakes in practice which led to the belief among the Chinese people that a wholehearted and effective execution of the public will could not be expected under the Manchu rulers. When the institution of a cabinet council had been obtained at the beginning of 1911, the people desired that a Chinese statesman of the first importance should be selected for the position of Prime-minister. But the weak Regent was so fascinated with the abilities of Prince Ching, a temporizing, intriguing old person, who totally lacked the qualities of statesmanship, that this Manchu prince was made the head of the cabinet. This led to the belief that the Manchu rulers would attempt to use the new institutions merely for their own benefit. The general inefficiency of the central government, especially the weak handling of foreign affairs, were charged to the Manchus, more especially to Ching, not without justice. When towards the middle of the year the Government then undertook a comprehensive scheme of nationalizing the railways of the various provinces, interfering therein with private enterprise and with provincial control, the cup of displeasure was filled. The revolutionary movement had been long and carefully prepared, not

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only by the creation of a secret revolutionary organization, but by penetrating the public administration and the army with personal influences favorable to a radical change. Ample financial backing was also provided. So it came about that, when the revolution was officially begun, it met no real resistance among the Chinese. Chinese troops and officials came over quite readily to the revolutionary side, and it was only the Manchus that fought bitterly. Thus the revolution became plainly and avowedly a national Chinese, anti-Manchu, movement. In all but four of the eighteen provinces the revolutionaries were successful in establishing republican institutions. In many cases the change left the official organization intact; the respective governor would simply adopt the title of "President of the Province ——— in the Republic of China." When the seriousness of the movement had become fully apparent, the Manchu rulers sought assistance from Yuan Shi-kai. But even he was unable, feared and respected though he was, to overcome the forces of revolution. In December a peace-meeting was held at Shanghai between representatives of the Manchu and the revolutionary governments. It was decided that a national convention should be called to settle the future form of Government for China. Though the throne gave a qualified adhesion to this proposal, the Republic was proclaimed by the representatives of the fourteen republican provinces, and Dr. Sun Yat-sen was chosen President. He accepted the office provisionally, subject to the determinations of the national convention. On January 1, 1912, he made a triumphal entry into the ancient capital Nanking and took an oath that he would hold the presidency only until the republican government had been fully established.

During the course of the revolutionary movement the great powers preserved complete neutrality. They did not formally recognize the republican provincial governments, but dealt with them in the ordinary course of business when the interests of their subjects required it. At the peace-meeting at Shanghai, an identical note was presented by the Consuls of the great powers in which the hope was expressed that the internal

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difficulties of China might speedily be adjusted. Many charges were made against Russia and Japan, as to desires of active interference and actual intrigues; but about these matters nothing definite is known, and only surmises are made, colored by individual antipathies. The hold of China upon her dependencies was, however, materially weakened through her internal troubles. Ever since the degradation of the Dalai Lama, Tibet has been more or less disaffected; it is openly so now and overtures have been made looking towards the establishment of a British protectorate. Mongolia is in a similar condition. On December 28th the *Kutuchta*, the representative of the Dalai Lama in Mongolia, was proclaimed autonomous ruler of Mongolia, at a meeting of chieftains at Urga. It is of course apparent that independence from China would mean for Mongolia dependence upon Russia. As a matter of fact, Russia is taking advantage of the opportunity for developing her plans of railway building in Mongolia.

In connection with the international relations of China mention must also be made of the Russian ultimatum directed to China with respect to affairs in the Kuldja Region, where Russia complained of interference with certain rights which she possesses under the treaty of 1881. China's compliance with the demands of Russia (March 27th) did away with these difficulties for the time being.

On May 8th, a new opium agreement was signed between China and Great Britain as representing the Indian Government. The Chinese had earnestly desired the immediate cessation of the opium import, but Great Britain adhered to the position that China must herself successfully suppress opium production within the empire. The agreement therefore provides that during 1911–12 the amount of opium to be imported from India is to be fixed at 30,600 chests, that it is to be reduced by 5,100 chests annually, and is to cease entirely in 1917. The Chinese Government is to diminish home production of opium in the same proportion. If clear proof of the complete suppression of the production of native opium is given by the Chinese Government, the import shall also cease, even before 1917. A British

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official is to determine the extent to which the Chinese home production of opium has been restricted at any given time.

The foreign affairs of Japan did not see any distinctly new developments during 1911. The understanding with Russia based upon parallel interests in Manchuria continued for the time being. With respect to the affairs in China, Japan abstained from any kind of interference and awaited developments. The treaty of alliance with Great Britain was renewed on July 13th, with the modification that it is not to be considered to be in force as regards any third power with whom one of the parties may have a general treaty of arbitration. This action was the result of the negotiation of a general arbitration treaty between Great Britain and the United States. The negotiations of new commercial treaties to take the place of those expiring in the current year was completed. Thus a new treaty was signed with England on April 3d, while the German treaty was ratified on July 15th. Through this new system of treaties Japan has secured greater freedom of development for her industrial and commercial life.

Foreign Affairs of the United States

On account of continuous revolutionary warfare in Mexico, which was carried on chiefly in the neighborhood of the border of the United States, the Government concentrated the army along that border for the purpose of preventing breaches of neutrality. Throughout the events which resulted first in the resignation of President Diaz, then in the interim presidency of Sr. De La Barra, and finally in the election of President Madero, upon which a new revolution headed by General Reyes immediately followed, the United States preserved the strictest neutrality and continued to guard its borders against illicit expeditions of every kind. In October General Reyes was summoned before a Court at San Antonio, Texas, on the charge of preparing a revolutionary expedition; but was released upon bail being given.

In order to improve conditions in certain of the Central Amer-

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ican Republics a plan was prepared under which loans would be furnished for the purpose of paying off past indebtednesses and supplying funds for internal improvements, especially for the building of railways upon which stable conditions and development in these countries so largely depend. A treaty of the United States with Honduras for this purpose was signed on January 10th; with Nicaragua, on June 6th. These treaties provide that if a loan is to be made to the respective government, it is to be secured on the customs revenues. A collector-general is to be appointed by the debtor government from a list of names presented by the fiscal agent of the loan and approved by the President of the United States. The fiscal agent shall make an annual report to the Department of State and to the government of the respective country. "The United States will afford such protection as will be requisite." These treaties were submitted to the United States Senate for approval, but were not acted upon during the year.

Further attention was given to the affairs of Liberia. An agreement was arrived at between the United States and the chief creditor nations. A new loan is to be issued for the payment of indebtednesses and the making of improvements; security for it is to be afforded in the import and export duties, the head tax, and the rubber tax. An American collector-general is to administer the revenue, assisted by a British, a German, and a French collector. In administrative decisions these shall each have one vote, but in the case of a tie the American collector-general is to be entitled to two votes. American inspectors are to organize the frontier police.

The Alsop claim, so long pending between the United States and Chile, was at last settled by award of the King of Great Britain, represented by a commission headed by Earl Desart, which decided that the claimants are entitled to judgment in the sum of 2,275,375 Bolivianos ($887,000).

The Canadian Reciprocity Bill was after much public discussion adopted by the House of Representatives and (July 22d) by the Senate. The policy of this measure engaged the attention of Canada during the elections in September and the

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Canadian parties had taken a definite stand upon this question. So, although other matters also were involved in the election, the victory of a Conservative Party meant that a Reciprocity bill would not be passed by the Canadian Parliament, for the time being. This virtually put an end to the efforts to place the commercial relations with our northern neighbors upon a more natural basis through joint action of Congress and the Canadian Parliament.

The informal announcement by President Taft of his desire to have an unlimited arbitration treaty adopted by Great Britain and the United States, was followed on May 17th by the submission of drafts of a general arbitration treaty by the Department of State to the Governments of Great Britain and of France. Negotiations for a similar treaty were also carried on with the German government. On May 23d, Sir Edward Grey made a speech in Guild Hall in which he pledged his hearty support to the idea of unlimited arbitration between England and America. On August 3d the arbitration treaties were signed in Washington and Paris and then sent to the Senate. As objections were made to the treaties they were not acted upon during the year. The treaties provide that all questions which may arise between the respective countries are to be settled by arbitration, but that, if either party should maintain that the question at issue is not "justiciable" in its nature, a preliminary decision shall be made upon this point by a commission composed in equal parts of nationals of the two powers. If this commission decides the question to be "justiciable," it shall be submitted to arbitration. A treaty has been concluded between the United States and Great Britain for the arbitration of a great number of special claims which have arisen since 1812.

A diplomatic conference was held at Washington for the devising of means to control pelagic seal fishing. The conference, composed of representatives of the United States, Great Britain, Russia and Japan, on July 7th signed a convention under which seal fishing is to be entirely prohibited on the high seas, that is, at a distance of more than three nautical

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miles from shore. Offenders against this prohibition may be seized by the representatives of any of the treaty powers, but must be delivered to the nearest authorized official of their own nation, to whom the right of trial and punishment is reserved. Ratifications of the sealing convention were exchanged at Washington on December 12th.

The concession of the Ottoman American Development Company (the Chester Project) remained before the Turkish Parliament throughout the year, but has not yet been ratified. The concession provides for railways to be constructed from the Gulf of Alexandretta into the interior of Turkish Asia, to the Lake of Wan and to the Persian frontier. The concession is modelled upon the American railway grants and includes mining rights and land concessions lying in a belt along the projected railway.

The development of the affairs of the Panama Canal included many considerations of an international nature. During the earlier part of the year the right to fortify the canal was discussed in Congress, and a decision was arrived at that such fortification was to be undertaken by the American Government. Towards the end of the year the question of canal tolls attracted attention. In his message of December 21st President Taft suggested that Congress adopt a system of remitting to American ships the toll rates charged for passage through the Canal. To this was added the suggestion of the Secretary of the Treasury that a fund be provided by Congress out of which tolls paid by American vessels can be remitted. As under the Hay-Pauncefote treaty we have engaged ourselves in matters of the Canal, to give the ships of all nationalities equal treatment with our own, any remission of tolls to American vessels will be regarded by foreign nations as a breach of our engagement in spirit, whatever form it may be given. By our action in this matter the value of our national professions and engagements will be judged by the world. It is important that the questions of ship subsidy and of canal tolls should be dealt with separately.

Cause for serious dissatisfaction had long been given by the Russian government through its treatment of American

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citizens of the Jewish race, who, provided with American passports, have attempted to travel in Russia. This treatment was not confined to persons born in Russia, who had become naturalized in the United States, but also to Jewish Americans who had never owed allegiance to Russia. As continued representations had proven fruitless in securing for American citizens their rights, President Taft in December denounced the treaty of the United States with Russia of the year 1832, so that now according to its terms it will lapse on January 1st, 1913. A resolution was passed by the Senate in which the action of the Executive was endorsed. Negotions are to be taken up for the conclusion of a new treaty more in accord with present conditions. The position of the United States Government in offering resistance to the oppressive action of Russia was very favorably commented upon in the European press.

Latin America

A conference of the Central American Union was held at the city of Guatemala in January. It adopted a resolution looking to the establishment of various educational institutions in the different republics of Central America, the establishment of free trade, and the opening of the privilege of carrying on the coasting trade to citizens of all the Central American Republics. According to a treaty signed on May 17th, the long disputed boundary between Costa Rica and Panama is to be determined by arbitration. A treaty for the arbitration of all questions of a legal nature not affecting vital interest was ratified by the representatives of the United States and Brazil on July 26th. The investigation of the boundary between Bolivia and Peru, on behalf of the arbitration commission which is to decide this matter, proceeded throughout the year 1911. After the refusal on the part of Ecuador to submit her boundary dispute with Peru to arbitration by the Hague Tribunal, negotiations continued between the two contestants and the United States government with the view to arranging with the latter a final disposal of the controversy. In December an arrangement

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was arrived at between the government of Paraguay and a group of European bankers, by which a loan of 25 million francs is to be furnished to the Republic; of this amount three fifths will be subscribed by French capitalists. On account of a large floating indebtedness, and the indemnities claimed against Paraguay by Brazil and Argentina as a consequence of the war of 1867, Paraguay has hitherto experienced great difficulty in securing funds abroad; the present loan therefore means an entirely new departure in the financial and general development of the Republic. A Pan-American commercial conference was held at Washington at the Pan-American Union from February 13th to 18th, upon which occasion commercial conditions and relations were discussed by experts.

International Conferences and International Law

A conference to discuss the Manchurian plague and to devise means for its abatement was held at Mukden during April. With respect to practical suggestions to be made, opposition developed between Russia and Japan on the one hand, and China, Great Britain and the United States on the other. At the request of the Chinese Government the final proceedings of the conference were kept secret.

A conference was held at Bern in May, at which the twelve states composing the European Freight Union were represented. The conference considered the adoption of a convention and subsidiary agreements relating to the international transport of travellers and baggage. The Freight Union has operated so successfully during the past twenty years that the creation of a similar arrangement with respect to travellers has repeatedly been suggested. The convention elaborated by the conference is now before the member states for ratification.

On June 2d, the International Conference on Industrial Property closed its sessions at Washington. In addition to the twenty-one states which are members of the Industrial Property Union, twenty other governments were represented. Several modifications of the convention were adopted, bearing upon the

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conditions of protection of industrial property within the Union, the right of priority of inventors, and the protection of trade marks.

A congress of governmental representatives met at Paris in June with the purpose of arriving at an understanding regarding the law of the air and aviation. The resolutions of the conference favored the principle of freedom of movement in the air across national boundary, the right of each state to protect its territory by proper police regulations, and the obligation of aviators to carry certificates of international validity.

In June, the First International Congress for Juvenile Courts was held at Paris, with the participation of seventeen governments. It passed several general resolutions and provided for the creation of a permanent international commission.

In October, the Maritime Law Conference was held at Paris. The International Opium Conference which has been in preparation for some time met at the Hague on December 1st. With the exception of Austria-Hungary, the powers which had been present at the Opium Conference at Shanghai in 1909 were again represented. The conference chose as its president Bishop Brent of the American Delegation.

The Commission of the International Sugar Union at its meeting in December discussed the demand of Russia that the quota of allowable sugar export from that country be increased to 300,000 tons. The question also arose whether such permission to increase the export from Russia might be made contingent upon the market price. The Commission adjourned until January, without arriving at a decision.

In the course of the year the officials and other representatives of the Carnegie Endowment for International Peace developed detailed plans according to which the work of this institution is to be carried on. Three general divisions were formed, for International Law, for Economics and History, and for Propaganda. It is intended that the work carried on under the Endowment shall rest upon scientific investigation. Large sums will therefore be expended in the scientific study of international law, international relations, and the economic causes

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and effects of warfare. In August a conference of twenty leading economists and publicists of the principal countries took place at Bern, where a program was elaborated for economic and historical studies connected with war and military preparations.

A matter of great importance is the rejection by the British House of Lords of the Naval Prize Bill. The bill had after long discussion been adopted by the House of Commons by the relatively small majority of 47; the House of Lords rejected it on December 13th by a vote of 145 to 53. The bill included the sanctioning, on the part of Great Britain, of the Hague convention relating to an international prize court, and of the London Declaration on the laws of warfare by sea. The chief objections made against these measures in Great Britain were that the court was too large, and that among its fifteen members Great Britain, the most powerful maritime nation, was to have only one representative. The arguments made against the Declaration of London centered about the provisions with respect to contraband, which make it possible for food to be treated as contraband, to the disadvantage of Great Britain in case of a war; another cause of dissatisfaction was that the conversion of merchantmen into war vessels on the high seas was not forbidden by the Declaration, as had been desired by Great Britain as against the practice of Russia. The Adverse vote of the House of Lords is not necessarily fatal to a ratification of the Hague convention by Great Britain, but it will undoubtedly have the effect of delaying this action for some time. The Declaration of London is not technically in need of ratification, as it will always have a certain inherent validity as a statement of principles agreed to by the authorized representatives of the powers who took part in the conference of London in 1909.

The events of the year 1911 have led to a great deal of discussion of the value and validity of the Hague agreements and of international law itself. The repeated disregard of treaties by various powers and the ruthless action of Italy in trying to possess herself of a Turkish province, have shaken the faith of the public in the power of treaties and international law to

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restrain national forces when impelled by what may seem at the time a vital national interest. There is some danger that the conception may become current that international politics is the unrestrained struggle for national advantage. But on the other hand the unanimous condemnation with which the action of Italy was received, indicates that the idea of international right is strong and that a breach of international law is keenly felt. By the side of the impression that the institutions of international judicature thus far created are too weak to cope with the difficulties of the situation, the idea is gaining ground, not that these institutions will be abandoned as an experiment which has failed, but that the events of the past year serve only to emphasize the need of strengthening them. A condition of rightlessness, such as is threatened should action like that of Italy become general, would be intolerable. At the present state of its development the world would not submit to it. Should this mode of action threaten to become general, terrible struggles would be inevitable as a result of which the rule of law would be established either by a power strong enough to impose its rule or by a group of powers working jointly for a common purpose. It is a part of statesmanship to avoid profitless struggles and to work towards joint action by a group of responsible powers strong enough to give a sanction to international law. But only when such action is based upon the idea of justice unbiased by national interest, can good results be expected from it.

But in the current discussion of the validity of international law it is generally overlooked that one breach of international law actuated by supposedly vital national interests is by no means equal to an abolition of legality in the world. A multitude of relations continue to be governed day after day, year after year, by the rules of international law. Representative statesmen, before they take action in matters large or small, inform themselves in their chancellaries concerning international rules and rights in the matter, and even if in one case they should decide that an overpowering national interest demands a disregard of law, in hundreds of cases they will

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be only too glad to have a definite rule whereby to govern their action. So, throughout the year 1911, notwithstanding the untoward happenings above discussed, the sway of international law was strengthened and extended; in the decisions of arbitration tribunals, of national courts, and of representative authorities dealing with international affairs, a multitude of precedents for our future guidance were created.

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THE OPERATION OF THE RECALL IN OREGON

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The "final crowning act to complete the temple of popular government here" was the adoption of the "recall" by a constitutional amendment in June, 1908. This provision allows the recall of any elective public officer by the voters of the district from which he was elected. The recall is instituted by filing a petition demanding the recall, signed by twenty-five per cent of the number of electors who voted in the district at the preceding election for justice of the supreme court. The petition must set forth the reasons for the demand. The officer may avoid a recall election by resignation. If he does not resign within five days after the petition has been filed, a special election (in practice it may be called at the same time as the general election) is called to determine whether he shall continue in office. He is virtually a candidate for reëlection without nomination, since others may be nominated for the office, and the person receiving the highest number of votes cast at the election is declared elected, whether he is the person whose recall is demanded or another. No petition may be circulated against an officer until he has held office for six months except in the special case of a member of the legislature, where it may be filed within five days from the beginning of the first session after his election. After one recall election no additional recall petitions may be filed against the same officer during the same term unless the petitioners pay into the public treasury the amount of the expenses of the preceding recall election.

There has been some uncertainty as to whether or not the constitutional amendment is operative without additional

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legislation;[1] and this has stopped recall movements in some cases, and has very probably prevented them entirely in others.

While the constitutional amendment was yet before the people for adoption, the recall of a member of the city council of Portland was discussed, to be attempted if the amendment should be adopted. But apparently the first serious attempt to recall an officer was made in Medford the next month after the amendment was adopted. This was blocked by a decision of the circuit court holding that the amendment is not operative without additional legislation. The next year the mayor of Junction City, and the mayor and all the councilmen of Estacada[2] were recalled. In the same year the recall of the mayor and three members of the city council of Union was prevented only by these officers' going "through a regular routine of resigning and electing themselves to other offices.[3] In 1910 the mayor of Ashland was subjected to a recall election, but the election resulted in his favor. In 1911 a member of the city council of Portland was recalled by the voters of his ward. Thus only four recall elections have actually been held, but in three of those the officers have been recalled. If the affair at Union

[1] One judge of the circuit court has held that the amendment is not operative without additional legislation, and another judge of that court has maintained the contrary view. The assistant attorney early held that the amendment is self-operative, but the attorney general later decided that additional legislation is required to allow its operation.

[2] This was the result according to the actual returns. But the canvassers—the recalled officers—denied the legality of the election (they and their followers generally had therefore not participated in the election), and refused to canvass the returns. The decision of the court in mandamus proceedings brought to compel such canvass was delayed until it became useless by the intervention of the regular municipal election. At that time all the recalled officers stood for reëlection and were all defeated.

[3] After the recall petition was filed the mayor resigned and was elected recorder by the council. One of the councilmen named in the recall petition resigned and was elected mayor by the council. The other two councilmen concerned resigned and were reëlected by the council. By this process a recall election at the time was avoided. And any further attack was prevented, because the date of the regular election came within the six months' exemption period which followed. "So you can see how easy it is to avoid the recall if the people interested will work together," said one of those who worked together in this case. At the regular election the whole ticket which these officers represented—some of them stood for reëlection—was defeated on the recall issue.

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is included as practically a recall, the officers have been deposed in four out of five instances. All of the officers have been municipal officers. All of the municipalities except Portland are small, the largest containing about five thousand people, and the smallest about four hundred. Many more or less serious attempts have been made in other cases to recall officers, including mayors, members of city councils, a member of a board of education, an assessor, county commissioners,[4] a district attorney, a circuit judge, a municipal judge—the list is necessarily incomplete; but for one reason or another elections in these cases have not resulted. Further, mere threats are often made to recall officers, which nobody takes seriously.

"The judiciary is not so intimately associated with the daily life of the average voter as is the municipal administration. . . . The public usually is less interested in court decisions than it is in the acts of governors, legislators, mayors and city councilmen. The recall club is shaken over minor officers every few days. . . . Experience teaches that if anyone needs protection from the abuse of the recall it is the short term servant of the people whose acts are more intimately within the knowledge of the people than the acts of the judiciary."

Neither in the cases in which the officers were recalled nor in that in which the officer was sustained in the election do the reasons for the demand as stated in the recall petitions disclose all the motives nor always the chief motive for the demand. In one case where it was charged in the petition that the officer was inefficient, immoral, untruthful, and arbitrary in the exercise of his authority, a motive which was influential at least to some extent was the hostility of certain property owners caused by the officer's action in opening streets which they had illegally closed. In one of the bitterest campaigns the petition asserted that the officials had managed the affairs of the city in an unsatisfactory manner, illegally diverted public funds, repudiated the city debt, etc. But the real cause of the recall movement was simply a factional fight waged by two banks and their

[4] County judges have been included with commissioners, but only in their administrative capacity.

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respective supporters which had divided the city against itself ever since the second bank was organized, and which ceased later only with the merger of the two banks. When the petition charged a mayor with incompetency, improper expenditure for street improvements, unwarranted removal of a city employee, and favoritism in committee appointments, the real ground of the agitation seems to have been opposition to his progressive policy in regard to public improvements. Where the petition stated simply that a councilman did not "faithfully and efficiently represent" the interests of his ward and city, the motives behind the recall were various. The officer had been inconsiderate in dealing with some of his constituents who desired his influence in securing certain action by the council. He had fathered an ordinance deemed by the labor unions prejudicial to their interests, and he was opposed by their adherents on this account. Their candidate won in the recall election. Further, the councilman had advocated the location of a sewer outlet in a certain locality and had thus aroused the opposition of some property owners. One of these was a candidate at the recall election. The councilman had also incurred the enmity of a corporation attorney by charging the latter with an attempt to bribe him to drop some legislation detrimental to the interests of the company. The attorney was very active against the officer in the recall campaign. It was also claimed that several corporations which had suffered from legislation originating with this officer were partly responsible for his defeat. In another case where unsatisfactory administration, diversion of public funds, needless expenditures, abuse of the emergency clause in the enactment of ordinances, impairment of the public credit, etc., were alleged in the petition as the reasons for demanding the recall, the movement was really the outcome of a struggle between those who opposed and those who favored the stringent enforcement of the prohibition law. The officers attacked represented the "temperance" ticket which had won at the preceding election.

It appears that some of the charges stated in the petitions in these cases could be substantiated but that others could not.

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On the whole it would seem that the recall action was not justified in more than one or two of the cases. However, it is going too far to conclude, as has been maintained here to some extent, that this experience with the recall has shown it to be merely an instrument of personal or factional spite.

The more or less serious recall movements which have begun but which have failed to result in elections—the evidence here is in most cases very fragmentary—have been based on a variety of grounds: against mayors, on charges of neglect of the interests of a particular district of a city, of an "open town" policy, of presence in a bar room after legal hours; of failure to enforce city ordinances against vice, extravagant expenditure of public funds without accounting therefor, etc.; a councilman, on charge of having ceased to reside in his ward, although the real cause was probably that he voted to license a hotel bar, and there was hope of electing as his successor one who would favor a "dry" town; another councilman, on the charge of incompetency, disregard of the wishes of his constituents, arbitrary and unreasonable action, personal interest in certain franchises, and having ceased to reside in his ward, although his activity in the removal of some officers really started the recall movement (one of the deposed officers aided in circulating the recall petition); another councilman, more than once, for refusal to aid some of his constituents in securing certain desired local improvements at the hands of the council; another, because of his official opposition to the widening and extension of a certain street; another, for voting for a public utility franchise in opposition to a demand for municipal ownership of that utility[5]; councilmen, for voting for a "blanket" franchise; on the charge of holding up certain improvements, delay in submitting a new charter, excessive taxation, etc.; a mayor and councilmen, for granting a certain franchise—"a record steal," it was charged; a member of a school board, because of his activity in locating a school building contrary to the desires of certain petitioners and in

[5] A councilman reports that an agent of a corporation *threatened* to circulate recall petitions against him with the aid of the many employees of the company unless he dropped certain proposed legislation hostile to the interests of the company.

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retaining, also contrary to the desire of petitioners, a teacher who had dismissed some students for disorderly conduct (the father of one of these students managed the circulation of the recall petition); an assessor, on charges of incompetency, unequal assessment, and casting aspersions upon the motives of tax-payers protesting at a public meeting against his assessments and attempting to intimidate them (the assessor's strictness in the way of full valuation as required by law was apparently the first cause of the trouble); county commissioners, on charges of incompetence, ignoring the express choice of the majority of the tax-payers in the appointment of road supervisors, and squandering money in unscientific road construction, contrary to a plan submitted by tax-payers which would have reduced the tax levy (the increase of the county tax levy and the failure to care for certain roads seem to have been the greatest grievances); because their new organization of road construction took considerable authority from road supervisors, and perhaps because of enmity created by the removal of a supervisor; because residents of one district disapproved of the commissioners' improvement of roads in another; on charges of wasteful expenditure of public funds, failure to publish some claims allowed against the county, and giving county work in return for political favors, with an additional charge against one commissioner of buying supplies as a private dealer and selling them to the county at greatly increased prices, and forcing county employees to trade at his store (it is claimed that political enmity was back of the recall movement); a county commissioner, for accepting road improvements not coming up to the specifications of the contract (he was believed to be financially interested in the contract); a district attorney, on charges of unfitness for office, use of his office for personal and political ends, discrimination between rich and poor, protection of gambling houses and saloons in their violation of the law, etc.—apparently well founded. Here is a mixture of motives, good and bad.

Soon after the recall amendment was adopted there was some talk of recalling a circuit judge because of his decision sustain-

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ing the legality of a provision of a city charter which allowed the sale of intoxicants. But no serious attempt to recall a judge was made until three years later, when a petition for the recall of a circuit judge was widely circulated, charging him with giving, in a notorious murder case, partial instructions which biased the jury in favor of the defendant. Later *lawyers* started a recall movement against a municipal judge upon the charges of bringing proceedings without complaints, of favoritism, of illegally releasing prisoners after sentencing them to long terms, of decisions contrary to the precedents of the court, including precedents set by himself.

What are the proper grounds for the recall of an official is a question upon which there must be much difference of opinion. It has been strongly urged here that an officer should never be recalled except upon charges of misfeasance or malfeasance in office. And the most ardent advocates of the recall recognize the fact that it should be used with caution. "The recall is a good weapon, but one to be sparingly used. . . . There should be but rare or occasional use of it, but the people would better keep it laid up in their toolhouse to use in case of emergency. . . . Frequent or foolish use of the recall would create sentiment against it, and might result in its abandonment. Its own friends would forsake it if by its overemployment it should keep communities in a state of turmoil and strife."

The subject of the proper grounds for a recall has been discussed by the press chiefly in connection with criticisms of the recent attempt to recall a circuit judge—the only recall movement in the state which has excited much general interest. The leading journal favorable to the institution has these comments:

"In reality it is not Judge Coke that the good people of Roseburg are after. Their real fury is against McClallen, but for the moment it is Judge Coke that is in sight.

"The public sympathizes with them in their indignation. McClallen shot down a highly esteemed citizen. He escaped punishment. The indignation of the Roseburg people is a natural sequence.

"But it was not Judge Coke that pulled the trigger of the

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murderous revolver. McClallen did that. It was not Judge Coke that fixed the requirements of the jury instructions at the trial. It was the law of the land that did that. Parts of the very instructions used were the dictum of the Oregon supreme court in the Morey case.

"On sober second thought, the Roseburg people must realize that fury is being visited on the wrong man. It was McClallen that killed a citizen. In a Portland case where the instructions on vital points were the same as Judge Coke's, the jury convicted. Had the two cases been tried contemporaneously, would the friends in one instance have used the recall because one court convicted and used it in the other because there was an acquittal?"

"Under the recall the people would place Judge Coke on trial. They would also have to try the McClallen case in full. They would have to know all the facts in detail to pass an intelligent opinion. They would have to have the law points explained. They would have to hear the instructions. They would have to study the decisions and precedents.

"They would also have to try the supreme court of Oregon, for the supreme court, in the Morey case, affirmed, in effect, the vital instructions given by Judge Coke. They would have to pass on the question of whether the supreme court was right or wrong. In short, they would have to supersede the supreme court and perform the functions of super supreme justices. In exercising the recall in such an instance, the electors of the second district would, in effect, assume all the functions of one of the coördinate branches of the state government of Oregon, setting aside the judiciary for the moment and making each elector in the second district a super supreme judge, exercising power above the judiciary and above the constitution itself.

. . .

"The people are not in position to pass upon the legal questions involved in the instructions to a jury. They cannot be constituted and do not want to be constituted a super supreme court, superseding and setting aside the constitutional supreme court. They are sane and sound in their judgments on ordinary

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issues, but they never have claimed nor never will claim that they are skilled in the law. . . .

"In the very nature of things, it is as the confusion of languages at the Tower of Babel for an electorate of laymen to attempt determination of whether a judge is right or wrong on a legal question. . . .

"If a judge goes on the bench in a state of intoxication; if a judge permits a railroad attorney to finance his campaign . . .; if a judge becomes a known corruptionist, a political trickster or dissolute in his habits, then he is within the scope of what prudent men accept as possible reason for invoking the recall."

A short time before this recall movement began, our leading conservative journal said:

"The presence in the Oregon constitution of the judicial recall for more than two years and the failure here to experience the dire results predicted by the eastern press is fairly conclusive of one of two things. Either judges are very rarely compelled, in deciding cases in accordance with the law and evidence, to ruffle public sentiment, or else the public is capable, even though ruffled, of discerning between a strict judicial duty and venality or incompetence. . . . But so far the recall has not been used . . . against the judiciary. True, we have never had a Schmitz liberated through sheerest technicalities nor the popular will grossly subverted. We believe, however, that if the courts declared some popular law unconstitutional, the people would not seek to recall the court in the absence of evidence of corruption, but would amend the constitution through the initiative. . . . Probably the recall will never be invoked in Oregon against a judge unless corruption is charged."

It might be contended that where the movement against a member of the judiciary is organized and guided by *lawyers*, as in the recent case of a municipal judge, there is possibly less danger that the "electorate of laymen" will go wrong in determining the question of recall.

It has been objected that the law does not limit the statement of reasons for the demand of recall to "justifiable" rea-

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sons, and that it thus opens the way for grave abuse. Some change here might well enough be made, but how effective any such limitation as to reasons would be is doubtful, since, in practice, as has been observed, the real motives back of the recall movement may not be mentioned along with the "justifiable" reasons in the petition.

As a check upon the abuses of the recall, some of its leading advocates have considered that it might be well to amend the law to increase the percentage of signatures now required for the filing of petitions. But a more rational change would be to reform the methods now employed for securing the signatures. Although it is probably true that people do not sign recall petitions thrust before them on the streets and elsewhere as readily as they do some other kinds of petitions, nevertheless under the present system there is great probability that accommodating persons will by their signatures aid a movement for the merits of which they care nothing. For this reason, and also as a guard against fraud—forgery of signatures to recall petitions has been charged—it should be required that the petitions be left at some public office for signature. "The only possible excuse for the recall is that it should be spontaneous and that each signer should be sufficiently interested to go to some public office and sign the petition—not wait to have it shoved into his hand with a 'sign here' from a 5-cents-a-name getter."

The expenses of the recall elections—both to the public and to candidates—have doubtless had some effect in discouraging recall movements. The six months' exemption provision has been another check, and possibly some danger of action for libel—this was threatened in one case where the charges in the petition were very grave—has discouraged the circulation of petitions in some cases. Fear of the failure of a recall movement under the particular circumstances caused in one case a lack of suitable candidates against the official attacked, and further action was hence delayed. Where the offense has been a legislative act, the possibility of invoking the referendum has doubtless diminished the demands for recall to some extent. "The good

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sense of the electors" is of course the chief reliance of the advocates of this instrument of government against any danger from its unwarranted use.

The management of recall movements has been undertaken either by organizations already in existence—labor unions and various kinds of civic-betterment clubs—or by temporary groups, large or small, formed for the specific purpose. Sometimes mass meetings have been called and committees appointed to conduct the campaign, or one member of a group has been designated for this purpose. In the case of the circuit judge, where the district covered a large area, an attorney was hired to take charge. The petitions are circulated either by paid circulators or gratuitously by persons sufficiently interested. They are circulated at a mass meeting, at a revival meeting (in one case), on the streets, etc. The expenses, if any, are paid by private subscription. In some cases counter-petitions have been circulated against the proposed recalls.

When an official is recalled at the election, it may be impossible to determine whether he was deposed upon the grounds, asserted or real, which caused the demand for the recall. For at the election he must at the same time justify his official conduct, compete with the political ambition of the other candidates, and face any personal opposition by the voters.

There "are represented as important factors in the recall . . . caprice of the public, immaterial and extraneous issues, politics, personal revenge and deliberate misrepresentation. . . . It is unjust, it is degrading, it is inimical to his independence, that he should be compelled to defend his acts or policies or decisions with one hand and combat political ambition and personal popularity of candidates who may oppose him with the other." This is the case especially when there are several candidates at the recall election. But in the elections so far held, only once has an official been compelled to stand against more than one competitor.

Of course no provision of law can entirely segregate the proper issue of the recall election, but something may be done in this direction by changing the law so that the election of

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candidates will not be held until after the question of recall has been decided. "Divorce . . . can probably only come through making the recall a real impeachment by the people on specific charges of misconduct and on them alone, without the selection of a successor of the accused officer being involved in the proceeding." It is reported that an amendment to the law embodying this reform will be submitted to the voters next November. Further, it has strongly been urged that the successor to the officer recalled should be appointed rather than elected.

The substitution of some form of a majority vote for the plurality vote now allowed by law would aid, in cases where there are several candidates, toward making the recall election a more efficient means of deciding the issue properly involved. In the one case of that kind before mentioned the successful candidate received 1,185 out of a total of 4,237 votes, only twenty-two more than received by the deposed official.

Opinions widely differ as to the effects of the institution upon the conduct of officers. On the one hand it is maintained that the mere existence of the law holds a discreet official "to a definite sense of his responsibility and duty." On the other hand it is said that "the recall . . . exerts no corrective influence over officials that the laws against official corruption and the controlling power of public sentiment do not." In fact it seems that at least on a few occasions the serious threat of a recall has prevented or has helped to prevent some official "sins of commission"—granting an obnoxious franchise, establishing a "restricted district." It may be, of course, that much political corruption has been prevented by a deterrent influence of the recall law. But, on the other hand, the possibility of a recall has probably caused at least some "sins of omission." It is thought that the assessors in many instances have failed to enforce the law fully for fear of a recall.

Where the recall issue is a permanent one, as it has been in some cases, of course recall elections only furnish additional opportunities for the temporary settlement of that issue. Limited to such cases, this opinion is correct: "In a state where

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there are frequent elections—for most officials the term is but two years—the 'recall' established by law is frequent enough. If the people are dissatisfied with the official they need not reëlect him."

But the terms of office in Oregon are now generally too short, and the adoption of the recall has opened the way for an increase in the length of terms—an important reform apparently otherwise impossible.

The discord apparent in recall movements, and the violence which was threatened in one of them and used in another cannot be justly charged as caused by the recall. The strife might have been worse in the absence of this method of settlement.

Our experience is yet too limited to justify any general conclusion as to the operation of the recall in Oregon. It is often denounced in strong terms by its critics, although there is no serious thought of abolishing it. It is as often extravagantly praised by its friends; but, whatever are its merits, the democratic nature of the recall has very much more to do with its popularity than any practical results which it may have thus far accomplished.

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NOTES ON CURRENT LEGISLATION

EDITED BY HORACE E. FLACK

Ballot Legislation of 1911. Probably the most important feature of the ballot legislation enacted during the past year has been the marked trend away from the hitherto prevailing American system, under which special provision is made for straight-ticket voting, and toward the simple Australian system under which the straight-ticket voter and the split-ticket voter are placed on an absolute equality.

Two states, California and New Jersey, have adopted, together with these simpler rules for marking, their logical corollary—the "office-group" form of ballot. The California act [1] provides that the names of the candidates, instead of being printed in separate tickets under the several party emblems, shall be grouped under the title of each office—in the case of certain local offices alphabetically, but in the case of all other offices, voted for throughout larger districts, according to the system of rotation which a dozen or more states have already adopted for their official primary ballots. Each candidate's name—except in the case of candidates for judicial or school offices—is to be followed by his party designation, or by the word "Independent." Blank spaces for writing in names, as many as there are persons to be elected to any given office, are provided for under each office-group. The New Jersey law [2] provides for the alphabetical arrangement of the candidates' names under each office-group, without any provision for rotation. Each candidate's name is to be followed by his party designation. If nominated by two or more parties or independent groups, a candidate may determine in what order their designations shall follow his name, but if he fails to indicate any choice the decision is left to the officer charged with printing the ballots. The change from existing conditions represented by this New Jersey act is even greater than that accomplished in California, since New Jersey has never, up to the present time, adopted the blanket form of ballot, but has continued the earlier American system of separate ballots for each party, merely providing that these ballots should be printed by the state. Their distribution by the state was also provided for, but as a matter of fact,

[1] Ch. 225; March 20.

[2] The so-called Geran law, Ch. 183; April 19; §§ 53–64.

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the actual distribution was usually made by the party organizations prior to election day. This has now been forbidden, and by the adoption of a system of numbered stubs, similar to that used in New York, Ohio and a number of other states, many abuses in connection with the handling of ballots on election day have been practically abolished.

Two other states, New Hampshire [3] and Wyoming, [4] while retaining the "party column" form of ballot, have abolished the party circle, and have done away with any special provision for voting a straight party ticket—thus leaving their form of ballot and rules for marking similar to those now in use in Iowa and Montana. This compromise form of ballot, when tried in other states, has usually proved but a temporary expedient, and it may therefore be expected that in time New Hampshire and Wyoming will follow out the logic of their present action by adopting, in addition to the Australian rules for marking, the "office-group" form of ballot.

The past year has also seen a marked tendency toward a *non-partisan* ballot for judicial, municipal and other local elections. The California act above referred to [5] provides that the names of candidates for school and judicial offices shall be printed on the general ballot without party designations of any sort. Wisconsin [6] has made similar provision as to judicial officers in counties of over 100,000 inhabitants (except police justices and justices of the peace), and as to members of school boards in cities of the first class. Candidates for such offices, after being proposed by petition, are to be voted for at a non-partisan direct primary, and the two candidates for each office who receive the largest number of votes at the primary election are to have their name, placed, without party designation of any sort, on the general election ballot. Another Wisconsin act,[7] the application of which is not limited to any particular locality, provides that "no candidate for any judicial or school office shall be nominated or elected upon any party tickets nor shall any designation of party or principles represented be used in the nomination or election of any such candidate." Ohio [8] and Washington [9] provided for a *separate* non-partisan judiciary ballot—in the first case for all elective judges, and in the second for judges of the Supreme Court and of the Superior Court. In Ohio—where such separate non-partisan ballots had already been provided for in the case

[3] Ch. 188; April 15.
[4] Ch. 51; February 18.
[5] Ch. 225; March 20.
[6] Chs. 4 and 5; March 2.
[7] Ch. 333; June 14.
[8] P. 5; February 17.
[9] Ch. 101; March 17.

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of members of school boards and of township assessors of real property —the names of all the candidates for each office are to be arranged according to the rotary system. In Washington only the two candidates who have secured the largest number of votes at a non-partisan judicial primary election (which was provided for in 1909), are to have their names placed on the separate general election ballot. When any candidate has received an absolute majority at the primary election, the name of no opposing candidate is to be printed on the general election ballot, but instead a blank space is to be left under the name of the majority candidate in which the voter may write any name he pleases.

Delaware has provided for a non-partisan ballot for the election of municipal officers in the city of Newcastle.[10] The ballot is to be of the "office-group" form, without party designations, and the names of the candidates are to be arranged alphabetically under each office. The candidates' names are to be placed on the ballot by the mere filing of a notice of candidacy and the payment of a fee. In marking the ballot the voter is to indicate his vote for any given candidate by drawing a line through the names of all other candidates for the same office.

The commission government acts adopted in a number of states, as well as the special charters of the commission form adopted for a number of cities, also provides, with very few exceptions, for a non-partisan "office-group" ballot for municipal elections. It is interesting to know that, in connection with this form of ballot, both at primary elections and at general elections, the rotary arrangement of the candidates' names (mentioned above as having been adopted in California) is becoming more and more common. This arrangement has even been adopted in North Dakota,[11] in connection with the party column form of ballot at general elections, for all offices to which two or more persons are to be elected.

No less encouraging than the general tendency away from the prevailing American form of ballot, and toward a simpler and fairer form, is the recent unanimous decision of the New York Court of Appeals [12] declaring unconstitutional the attempt of the New York legislature, under the domination of Tammany Hall, to render fusion movements in New

[10] Ch. 209; March 28.
[11] Ch. 130; March 17.
[12] In the Matter of Hopper *v.* Britt, 203 N. Y. 144; decided October 10, 1911.

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York City practically impossible. This object was sought to be achieved in the so-called Levy election law [13] by a provision that the name of any candidate nominated by two or more parties or independent bodies might appear in but one column on the ballot. Such a provision, as has often been pointed out, while entirely fair in conjunction with an "office-group" form of ballot, is grossly unfair and discriminatory when combined with the "party column" form of ballot. This has not always been realized in other states, where "fusion" campaigns for judges or city officers have played a less prominent part than in New York, and where joint nominations have more often been the result of selfish deals than of any genuine sinking of national party differences for the sake of the common good. As a consequence, the courts of three states, looking more to the letter of the law than to its real effect, have upheld such provisions, and in only one state, California, has such a rule heretofore been held unconstitutional. The framers of the Levy law attempted to avoid one of the chief objections of the California court, by providing that, in any column in which the name of a candidate was prevented by the new rule from appearing, there should be printed, instead of the words "No Nomination," which the California court had held to be misleading, the words "see Republican column" or "see Democratic column," as the case might be. This subterfuge, however, did not prevent the New York Court of Appeals from penetrating to the real purpose and effect of the measure, which was to render it more difficult for many voters to vote for a fusion candidate, and thus to render fusion campaigns less feasible. The decision, by preventing in future any such unnecessary and unfair discrimination, establishes a valuable precedent,[14] not only for New York, but for all other states as well.

Other provisions of the Levy election law, unfortunately not affected by the decision above referred to, make it far more difficult than heretofore to place on the official ballot the name of any independent candidate. The act also contains numerous objectionable provisions in regard to the appointment of election officers, including the Board of Elections in New York City and similar boards established in all the upstate counties, and in regard to the conduct of elections; but these

[13] Ch. 649; July 13.

[14] For a fuller discussion of this very interesting case, and of the various problems of ballot legislation involved in it, see two articles by Albert S. Bard of the New York bar, in the January number of the *National Municipal Review* and in the March number of the POLITICAL SCIENCE QUARTERLY, respectively.

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provisions can hardly be discussed under the head of ballot legislation. It is sufficient to say that seldom has a more vicious or reactionary piece of electoral legislation been foisted on a protesting community. Among the few desirable or unobjectionable changes made by the bill, the only one which affects the form of ballot is the provision for a separate ballot for presidential electors. Heretofore these officers have been voted for in presidential years on the general ballot.

Another act [15] passed in New York provides that "no ballot shall be declared void because a cross-mark thereon is irregular in character." The wisdom of such legislation is open to serious question. The courts have always been lenient toward minor irregularities in marking, where such irregularities have not appeared to be intentional; and their decisions in cases of this sort, while by no means free from conflict and ambiguity, have gradually tended to build up a system of rules for the counting of ballots under which an unintentional irregularity may be differentiated from a wilful attempt to identify a particular ballot. To adopt a new and sweeping legislative provision such as that contained in the new law is likely only to destroy such rules as the courts have been able to establish, and to open the door wide for the easy identification of ballots by purchased voters. A somewhat similar act [16] was passed in Maine, but with the proviso in this case that any irregularity in marking should be disregarded *only* if deemed unintentional. This act applied only to cross-marks made in the party circle—a distinction somewhat difficult to defend.

In California [17] and New Jersey [18] provision was made for the mailing of a sample ballot—and, in California, of a card containing instructions to voters as well—to each voter. In each of these cases one purpose of the provision was undoubtedly to familiarize the voters with a new form of ballot in use for the first time.

In New Jersey [19] the governor was authorized to appoint a commissioner to revise, simplify, arrange and consolidate the primary and election laws of the state, and to submit to the next legislature a draft of a new election law together with recommendations for legislative action. In Pennsylvania [20] the commission appointed in 1909 to revise and codify the election laws of the state was continued and given additional time in which to complete its work.

In New Hampshire the rules under which assistance may be given

[15] Ch. 269; June 9.
[16] Ch. 70; March 22.
[17] Ch. 442; April 12.
[18] Ch. 183; April 19; §59.
[19] Ch. 364; May 2.
[20] House concurrent resolution No. 28.

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to voters in marking their ballots were rendered more strict. Heretofore a voter, on merely stating that he was blind or disabled, or that he could not read, could procure the assistance of either one of the election officers designated by the moderator for assisting voters. In actual practice a mere request for assistance was all that was usually demanded. The new law compels any voter desiring assistance to declare *under oath* his inability to write, blindness or other physical disability, provides that he may receive the assistance of both election officers (of different parties) designated by the moderator (though it is not clear that he *must* be assisted by more than one), and requires the officer or officers assisting him to certify the fact that they have done so in a blank space prepared for this purpose on the back of the ballot. New Jersey [21] and Wisconsin [22] also passed laws regulating more strictly the method by which voters may be given assistance in marking their ballots.

In Massachusetts the legislature submitted to the vote of the people,[23] at the November election, the constitutional amendment, passed in 1909 and 1910, permitting the use of voting machines. This amendment was adopted by popular vote and is now a part of the constitution. In New Jersey, on the other hand, the use of voting machines—which, under the act of 1908, allowing the question of their continuance to be submitted in each election district, had been generally abandoned—was finally abolished altogether.[24]

Among the other measures relating to the ballot which were adopted in the several states the following may be mentioned: Tennessee extended its Australian ballot law to apply to counties of from 19,399 to 19,425, [25] and from 29,250 to 29,600 [26] inhabitants—*i. e.*, to Coffee County and Tipton County, respectively. Wisconsin provided [27] for separate ballots for presidential electors, to be printed on light blue paper, and for still other ballots, to be printed on pink paper, for all questions referred to popular vote. The city ballot and the general state and county ballot are still to be printed on white paper, and sample ballots are to be printed on paper of a different color from any of the official ballots. In Illinois it was provided [28] that, where two or more persons are to be elected to a given office, the names of all party candidates therefor are to be arranged according to the size of the vote

[21] Ch. 183; April 19; §63.
[22] Ch. 373; June 14.
[23] Resolves, Ch. 75; May 15.
[24] Ch. 205; April 24.
[25] Ch. 124; February 17.
[26] Ch. 398; June 24.
[27] Ch. 633; July 11.
[28] P. 310; June 5.

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cast for each of them at the primaries, and the names of all candidates nominated by petition according to the order in which their names appear on the petition itself. Another Illinois act [29] allowed any city, by popular vote, to discontinue minority representation in its municipal legislative body. In South Dakota [30] and Wyoming [31] the form of ballot for constitutional amendments and other questions submitted to popular vote was prescribed in more detail than heretofore—in the latter state by the provisions of the initiative and referendum amendment which is to be submitted to the voters in November, 1912. In Kansas the form of ballot for the election of commissioners in commission-governed cities of the second class [32] was altered by the provision that any candidate may designate on the ballot the city department of which, if elected, he desires to be the head. In Connecticut the Australian ballot law of 1909 was amended [33] and its provisions in regard to the form of the ballot and the rules for marking—especially the rules as to split-ticket voting for selectmen—were made more specific.

A number of other acts and minor amendments were enacted in the several states, but no one of them is of sufficient general interest or importance to deserve separate mention.

ARTHUR LUDINGTON.

Primary Elections—Legislation of 1909–1910. The rapid onward march of the movement for direct primary nominations, with its overthrow of the caucus and convention system and subjection of the organization and operations of political parties to legal control, continued unhalted during the years 1909 and 1910. In over half of the score of states having merely rudimentary or narrowly restricted primary election laws, the messages of the governors urged comprehensive direct primary legislation upon the lawmakers. The question of direct nominations became a dominant political issue in New York, and provoked a prolonged legislative contest that attracted national attention, and served to develop public opinion, but did not result in any legislation. Governor Hughes, advancing from his earlier recommendation of a "permissive" system, strongly pressed upon three successive sessions of the legislature, two regular and one special, the enactment of a mandatory system of direct nominations for prac-

[29] P. 148; June 5.
[30] Ch. 87; February 21.
[31] Ch. 52; February 18.
[32] Ch. 184; March 14.
[33] Ch. 263; September 19.

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tically all elective offices, and of direct choice of members of party committees. In April, 1909, the opponents of direct nominations created a joint legislative committee to investigate the operation of direct primary laws in other states and report its recommendations to the legislature at the ensuing session. This committee held public hearings in ten states and gathered from both advocates and opponents, a vast mass of testimony as to the actual workings of direct primary nominations, that should be of great value to students of this subject. Only a summary, or digest, of the testimony (some 200 pages) was printed in the report of the committee, which favored more legal regulation of party organization and action, but opposed disturbing the convention system by introducing the principle of direct choice by party voters except for members of local committees and delegates to conventions.

The Connecticut commission on direct primary laws, authorized by the General Assembly but not composed of members thereof, made a second and supplementary report to that body in 1909, in which it renewed its recommendation of 1907 in favor of a mandatory, statewide direct primary law covering practically all elective officers, including United States senators, except the minor state officers.

As the net result of these two years of public discussion and legislation, nine recruits, one territory [1] and eight states—Arizona, California, Colorado, Idaho, Maryland, Michigan, Nevada, New Hampshire, Tennessee—joined the ranks of the more advanced direct primary states by enacting new and comprehensive laws for direct nominations. Missouri passed a law, entirely new in form, but nearly the same in substance, as that of 1907. Illinois reënacted the law of 1908, slightly modified to meet the constitutional objections sustained by the state supreme court.[2] In Montana the two houses of the legislature each passed a separate direct primary bill, but failed to reconcile their disagreement.

In nine of the states having thoroughgoing direct primary laws, amendments were recommended by the governors, and generally enacted by the legislature.[3] They had to do mainly with the scope of direct nominations, the method of proposing candidates, the position of names on the ballot, the test of party affiliation, the system of party

[1] Hereafter in this summary the term state will be applied to all nine without distinction.

[2] See "Notes" in this Review, II, 271–72, 417–21; III, 561–62; IV, 569–71.

[3] Ia., Kans., Mo., Nebr., No. Dak., Okla., So. Dak., Wash., Wis.

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organization, and will be noted at the end of the discussion of the corresponding parts of the new laws. In general these amendments were designed, as the result of experience, to perfect the operation of the laws. There is no evidence of any turning back from the principle of direct primary nominations. No governor recommended the repeal of the fundamental provisions of the direct system. On the other hand, the chief executives of Indiana, Michigan, Minnesota, and New Jersey, states having several years of experience with direct nominations for local offices, all recommended a marked extension of the system.

The nine new direct primary statutes of 1909–1910 are, as a whole, very progressive, and in striking harmony with the general principle of direct nominations and responsible party government under legal control. In applying this principle they present variations, both of degree and method, that are interesting and well worth comparative analysis and observation; yet all, with the possible exception of those of Tennessee and Michigan, represent the same general type of primary legislation. All nine acts are mandatory, each as far as it goes, but differ somewhat as to the discretion or option allowed party organizations and political subdivisions. Every state provides for a practically pure or unmixed system of direct nominations, except Maryland and Michigan, which adopt a composite or mixed system of nominating candidates in part by direct primary and in part by delegate convention. Each statute is state-wide and essentially uniform in its application, except in Maryland. The local acts for certain counties in Michigan, and also that for "Baltimore City," are repealed. But Maryland excepts five out of a total of twenty-three counties from making direct nominations for county and legislative offices, unless a majority of the voters of *either* party in an excepted county decide in favor thereof on a referendum vote, required at the first primary election, but optional thereafter, in which case the direct system becomes effective therein upon all parties. Moreover, the Michigan law provides for a system of local option, or referendum, in counties, cities under seventy thousand inhabitants, and judicial districts, by which the voters in each of these political subdivisions are permitted to decide whether or not candidates for its local offices shall be nominated by all parties at primary elections. The question may not be submitted in a given subdivision oftener than once in two years.

These laws present both marked similarities and decided differences

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in scope; first, as to the political organizations authorized to participate in making direct nominations; second, as to the number of offices for which candidates are to be nominated directly. Five acts provide that legal parties, having a right to separate primary election ballots for their candidates for nomination, shall consist only of political organizations casting a required percentage of the *total vote of the state:* namely, ten per cent in Colorado, Idaho,[4] Maryland, and Tennessee, but only three in New Hampshire. The other four acts provide for not only state-wide parties, but also local parties entitled to separate primary ballots in merely one or more subdivisions of the state. Such state or local parties are to consist of all political organizations casting, in Arizona, five, but in California and Nevada, only three per cent of the total vote in the state or in a political subdivision thereof, as the case may be. The Michigan act applies to all political parties with no limitation as to the vote cast; and any new party may have the names of candidates placed on a separate primary ballot by petitions, signed by three hundred electors for state offices and only twenty-five for district, county or city offices. Arizona farther provides that an entirely new political organization shall be officially recognized as a legal party, and so certified to the county officials, by the territorial secretary, on the petition of electors equal in number to two per cent of the total vote in the territory, and so distributed as to constitute two per cent of the vote in each of at least five counties.

All of these acts, except those of Michigan, New Hampshire and Tennessee, provide for direct nominations for practically all elective offices, congressional, state and local. The California, Colorado and Nevada laws make a special exception of the offices of municipalities whose charters provide a system of nomination. The Michigan law is not to apply to any state-wide offices except those of governor, lieutenant-governor, and United States senator, nor, as stated above, to the offices in certain subdivisions if the voters thereof so determine. New Hampshire expressly excepts *all* city and town offices except those of "moderator and supervisors of the check list." In Tennessee direct nominations are to be made for all elective offices, even those "elective by the General Assembly in joint session," [5] except those of state and district judges and "attorneys-general." [6] Every other act except

[4] Idaho also requires three nominees for state offices at the last general election.
[5] The secretary of state, treasurer, and comptroller.
[6] Corresponding to district attorneys or state's attorneys in other states.

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that of Michigan applies the direct primary to all elective[7] judicial offices. The Michigan law does not apply to the office of supreme court judge, nor to that of circuit judge in any judicial district where the voters reject it.

Of the eight *states*, all[8] except New Hampshire provide for the direct nomination of party candidates for United States senator. Presidential electors are expressly excepted from the operation of the direct primary law in Colorado, Michigan, and Nevada, and impliedly so in California and Idaho; while the laws of Maryland, New Hampshire and Tennessee provide for their nomination by a state convention. The acts of Arizona and New Hampshire make no mention of party delegates to the national nominating convention; but all the other states except them from the application of primary elections, and with the exception of Colorado and Michigan, expressly provide for their selection by a delegate convention.

Oklahoma so amended her law that it no longer applies to party delegates to national conventions. South Dakota extended the application of her law to include supreme court judges, presidential electors and party delegates to national conventions.[9] North Dakota withdrew the nomination of supreme and district court judges from the operation of the party primary, and provided for their non-partisan nomination on a separate "judiciary ballot." Oregon so extended her law as to include not only the nomination of presidential electors, and the choice of party delegates to national conventions, but also a preferential vote on candidates for nomination for president and vice-president.

The Maryland law provides for annual, the other eight for biennial, primary elections. Official ballots are provided for without exception. Every act except that of Tennessee provides for a joint primary of all parties to be held, and the returns canvassed, the same as for a regular election, the entire expense being a public charge. In Tennessee the primaries of the different parties are to be held on the same day throughout the state, but by separate party election boards at different polling places. These election officials are appointed by the various county committees of each political party and serve without pay. The returns of each primary are canvassed by party committees and a state primary election board chosen for each party by the legislature in

[7] In Ariz. and N. H. the important judicial positions are filled by appointment.
[8] Md. by act of 1908, while Mich. reënacts the provision of her law of 1907.
[9] Provided the party vote equals ten per cent of the total vote of the state.

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joint session. The expense of the primary election is mainly a public, but yet in part, a party charge, defrayed by a pro rata assessment of the candidates for nomination.

Heretofore, direct primary laws have created a legally free field for proposing candidates for nomination, and securing the placing of their names on the official primary ballot. They have either not sought to limit and sift candidatures for nomination, or have done so only by requiring the payment of fees and the filing of nominating petitions signed by a percentage of the party voters. Prior to 1910 direct primary legislation contained no legal warrant for either official or unofficial designation by any committee, convention, or other party organ, of candidates for nomination by the party electors, nor any example of a primary ballot that indicated a political distinction or preference in position between candidates of the same party.[10] The Colorado law of that year departs from this hitherto uniform practice and marks the entering wedge, however thin, of what may become an entirely new development in the direct primary legislation of the future. This statute provides for the placing of the names of candidates on the primary ballot not only by petition, but also by "certificate of designation by assembly." This designating "assembly" is a delegate body to be chosen according to party rules. It is to take only one ballot on candidates for each office. All candidates receiving the votes of at least ten per cent of the delegates are to be certified by the president and secretary as "designated" to go on the primary ballot. No assembly may declare any candidate its nominee. The names of such candidates are to have a preferred position on the ballot ahead of those proposed by petition.

Apart from this innovation the laws under consideration provide four ways of placing the names of candidates on the primary ballot: (1) by the filing of a petition signed by a required percentage of party voters, as in Arizona, California and Nevada; (2) by such a petition without paying a fee, as in Idaho and Michigan; (3) by an application or certificate signed by the candidate and the payment of a fee, as in Idaho, Maryland, New Hampshire, and Michigan cities of 250,000 population; (4) by such personal application without paying a fee, as in Colorado and Tennessee. Thus Idaho, and even Colorado, give the candidate a choice of two methods, while Michigan prescribes one

[10] The Hinman-Green bill, before the New York legislature in 1909 and 1910, provided for the designation by party committees of candidates for nomination, who were to have first place on the primary ballot, but it failed to become a law.

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method for the state at large and another for the city of Detroit. Distribution of the signers of petitions is required in Arizona, California, and Idaho, but not in Michigan and Nevada. Arizona, California, and Michigan place a maximum as well as a minimum limit on the size of nominating petitions, but Idaho and Nevada only the minimum.

Three states amended this part of their primary laws in 1909 so as to eliminate petitions signed by a percentage of party voters. They now provide that names may be placed on the ballot in the following ways: in Oklahoma, merely by an application signed by the candidate; in Nebraska, by such an application, or by petition of twenty-five electors and acceptance by the candidate; in Missouri, by a signed declaration of candidacy and the payment of a fee to go into the expense fund of the party.

Four different methods of arranging the names of qualified candidates on the ballot are represented in these various acts. Tennessee provides for arranging the names in the order of the filing of application despite the unfortunate experience therewith in Illinois and Washington. The alphabetical order, the most usual heretofore, is adopted by Arizona, California, Idaho, and Maryland. This arrangement is also provided in Colorado for candidates by personal petition, but the names of candidates by "designation by assembly" are to be arranged in the order of the size of the vote each receives. Three states adopt the newer plan of rotating, or alternating, the names: Nevada, throughout the state; Michigan, in all counties or political subdivisions where the party casts five per cent of the total vote; New Hampshire, for all offices voted for in more than one town or ward. The tendency regarding the arrangement of names as the result of experience is indicated by the amendment of six primary laws in 1909 so as to provide for rotation: throughout the state, in Nebraska, Washington, and Wisconsin; in St. Louis and all counties in Missouri having cities of 100,000 population; and for all county and higher offices in Iowa and Kansas.

The Colorado and Idaho laws adopt the open primary with no public test of the voter's party affiliation. As in Wisconsin the ballots of the different parties are to be separate but identical in size and color. Every qualified elector who offers to vote is to receive a composite ballot, consisting of one ticket of each party fastened together, from which he is privately to select and vote any one ticket he may choose. The rest of these acts all provide for the closed pri-

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mary with separate party ballots, of different color except in Arizona and California. The test of party affiliation is prescribed by law in every instance and not left to any party authority. The party tests are uniformly liberal, looking not to the past action but only to the present affiliation and future intention of the voter. In Michigan the challenged voter is to swear or affirm "that he believes in the principles of the political party" in which he claims membership; in Nevada, that it is "his bona fide present intention to support the nominees of such political party"; in New Hampshire, that he "affiliates with and generally supports the candidates of the party." In Maryland the board of registers is to enter in the "party affiliations" column "the name of the political party, if any, to which the voter is inclined and with which the voter desires to have himself recorded as affiliated," and also "to explain to each voter that the statement of such party affiliation does not bind him to vote for the candidate of such party of any election." California, Maryland, Michigan, and New Hampshire provide for a state-wide system of party registration, or enrollment; Arizona, Nevada and Tennessee, for no party registration whatever. In the first group of states, only previously enrolled voters, each within his own party, may participate in the primary. But the right to change party enrollment is recognized and quite flexible provisions made therefor, except in Michigan. In the second group of states, the voter, unless challenged, is to receive the ballot of any party he names. If challenged, he may still receive and vote the ticket of his choice, even though a change of party affiliation is involved, provided he subscribes to the party test. Tennessee makes express provision for a change of party membership on primary day by a sworn declaration that the voter "now intends, in good faith, to affiliate with and become a member of" the other party. Thus these nine statutes represent three degrees of flexibility or rigidity of party affiliation, and of freedom of choice on the part of voters, in the making of nominations.

The governors of Minnesota and Wisconsin submitted directly opposite recommendations in 1909 with respect to the test of party affiliation; the former for changing from the closed to the open, the latter, from the open to the closed, primary; but no legislation resulted therefrom. Missouri changed from the open to the closed primary, but with no party registration, and a very liberal test recognizing the right of the voter to change his party affiliation even on primary day. Nebraska, on the other hand, changed from the closed primary

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with party registration in cities only, to the open primary with a blank ballot containing the names of all the candidates of all parties in separate party columns. Each elector is left free to vote for the candidates of any party he chooses, but must confine himself to one column or his ballot will be rejected.

Six of these acts [11] provide for plurality nominations without exception, and make no attempt to guard against nominations by very small minorities where there are several candidates. The new Michigan law omits the former requirement of a minimum percentage of votes to secure the nomination for governor and lieutenant-governor. Tennessee provides that a plurality may elect party delegates and committeemen, but requires a majority to nominate candidates for public offices. If no candidate for nomination receives a majority, a second or "run-off primary" is held to decide between the two candidates receiving the highest vote. The Idaho law marks a new development.[12] It seeks to solve the problem of minority nominations by means of the preferential, or second choice, vote. A candidate must receive a majority of the first choice votes, or failing this, the largest number of both first and second choice votes combined, to secure the nomination. Maryland acquiesces in plurality nominations in all cases except state offices, for which a majority is required and a system of preferential voting provided. Candidates for these state offices are to be nominated by the majority vote of a state convention of delegations of delegates who have received binding instructions as to every candidate by a preferential vote of the party electors of their respective counties or districts. In making a nomination for an office each delegation is to cast its entire vote on the first ballot for the first choice of its constituents as shown by its instructions. If no candidate receives a majority, the one receiving the lowest vote is to be dropped and the votes cast for him are to go, on the second ballot, to the second choice of the voters. If then no candidate receives a majority, the same process is to be repeated until a nomination is made by majority vote. Not the party voters but the state convention voting by delegations under the unit rule and as instructed by the preferential primary vote, formally and legally makes the nomination.

The California law provides that no candidate for nomination defeated at a primary election shall be eligible to run independently for the same office at the ensuing regular election. Arizona and

[11] Those of Ariz., Calif., Colo., Mich., Nev., N. H.

[12] See "Notes" in this Review, III, 563–65, for a more complete treatment.

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Michigan frown upon fusion, and refuse to allow the name of a common party nominee to appear on the ballot as the candidate of more than one party. Following the English practice, Maryland introduces a new feature in primary legislation by providing that where there is only one candidate or set of candidates for nomination for an office or group of offices, certificates of nomination are to be issued without the formality of a primary election vote.

South Dakota repealed the provision of her primary law requiring a minimum of thirty per cent of the votes cast to nominate, and returned to simple plurality nominations. Iowa amended her law so that the minimum percentage of thirty-five is not to apply to candidates for nomination for United States senator, but is left undisturbed as to other offices.

Every one of these acts provides for legal regulation of the organization and government of political parties. But they differ considerably in two respects: first, the extent to which they definitely determine party organization and procedure; second, the degree to which they make provision for the direct choice of party committeemen and delegates by the party electors. On the basis of these differences the acts of the nine states essentially fall into three groups of five, three, and one state each.

The first group, comprising Arizona, Colorado, Nevada, New Hampshire, and Tennessee, is characterized by the definite legal determination of party machinery, procedure, and powers, and by largely direct responsibility in party government to the party members. Each state prescribes for all parties a complete and uniform system of organization, the greater part of which proceeds immediately from the electors of the party. Directly elected precinct committeemen constitute *ex-officio* the county committee in all but New Hampshire, where the members are selected by the directly chosen representatives from each county in the state convention, which body fixes the size of the committee in the different counties. In Arizona each precinct where a party casts over fifty votes is to have an additional committeeman for every fifty party votes or major fraction thereof. Each precinct in Colorado is to choose two committeemen, a man and a woman, both of whom are to be members of the county committee. The party nominees are constituted members of the committee for the task of organization, a part of which is the choice of a man as chairman and a woman as vice-chairman.

Intermediate district committees, legislative, congressional, etc.,

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are not provided for in Arizona and New Hampshire. Such committees in Colorado and Tennessee are to consist of two representatives from the committee of each county embraced by any district, but in Nevada, they are to be appointed by the district party candidate or candidates.

In constituting the state central committee in this group, the county is used as the unit of representation except in Tennessee, where the committee is composed of two members from each congressional district chosen by the state convention. In New Hampshire, this party governing body consists of the various county committees combined; in Colorado, of the chairmen and vice-chairmen of the county committees, plus the party nominees for state offices for the purpose of organization; in Arizona, of the county chairmen and one or more members from each county elected by its committee, from among all of whom the state chairman is to choose an "executive committee" of one member from each county; in Nevada, of one to three members from each county, selected alternately by the state "party council" and the state convention. It is further provided by Nevada that "each such committee may select an executive committee and *shall* choose its officers by ballot and each committee and its officers shall have the powers usually exercised by such committees and the officers thereof in so far as may be consistent with this Act." In Tennessee, "The committees provided for by this Act . . . are prohibited from adding to or increasing their membership, but they shall have, respectively, the power, and exercise it in conformity with the wishes of the party nominee they represent, to appoint campaign committees, conferring upon them such authority as may be needful to the exercise of their functions; but the said committees shall be without any voting power."

The machinery of party government established by this group does not include either county or district conventions. But careful provision is made in every case for a "party council" or "state convention" through which each party is to determine and formulate its policy, or platform. These policy-determining bodies are constituted in different ways as follows: of party candidates and various committeemen, in Arizona; of party candidates and the hold-over state chairman and senators, in Colorado, and also in Nevada, with the exception of the chairman; of party candidates and as many directly chosen delegates from each town or ward as it elects representatives to the general court, in New Hampshire; of one or more directly elected delegates from each county in a fixed proportion to its party vote, in

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Tennessee. The representatives of the different parties are to meet on the same day and publish their platforms within a specified time, in the first three states, but not in the last two. New Hampshire rules out proxies and any manipulation of representation by the provision that "none but such nominees and state delegates shall take part in such state convention." Tennessee prohibits any increase in the membership of the convention, or of any county delegation, by any party authority. Delegates "shall not act by proxy unless the proxy be that of a delegate who has been in actual attendance upon the convention and for good reasons unable to continue his attendance"; nor shall any delegate "accept or use a free pass or free transportation of any kind in going to or returning from any convention." The activities of these party assemblages are not, as a rule, wholly confined to platform making, nor always to a single session. In New Hampshire, the party representatives "meet in state convention for the purpose of adopting the platform of their party, nominating presidential electors, and effecting an organization for the following two years"; in Arizona, they not only make the platform, but also "shall be the party council for two years, and shall have power to call special meetings and perform such other business as may be consistent with the provisions of this Act"; while in Tennessee, the "state convention shall select party presidential electors, party delegates to the national convention; formulate a party platform, if it chooses; select Central or State Executive Committeemen . . . declare nominations certified to it . . . determine contests over party nominations; . . . and exercise such other powers as may be necessary to the execution of its functions and the enforcement of this Act." The party council in Nevada chooses the state committee in addition to framing the party platform, but apparently holds only a single session in a period of four years; for in presidential years, the state convention, that each party may hold to choose delegates to the national convention, and nominate candidates for presidential electors, is also to discharge the functions of the party council.

The second group of states, California, Idaho, and Michigan, prescribes uniform party organization and procedure to only a limited extent, leaving them largely to individual party usage, and authorizes the indirect choice of party officials and delegates to conventions, except in two instances. Idaho provides for county committees consisting of from one to three members from each precinct to be selected by the party nominees for county offices. In both California and

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Michigan these bodies are to be chosen by county conventions, their size and apportionment being left to party regulation. Intermediate district committees are not provided by the Idaho law. In California they are to consist of members apportioned to political subdivisions and appointed by the district party candidate or candidates for a definite term. Michigan permits district candidates to elect to appoint these bodies, failing which, they are to be constituted of specified county-committee members, or representatives elected by them. The state committee in Idaho is composed of one member from each county chosen by the county committee; in California, of not less than three members from each congressional district, elected by the state convention; in Michigan, of members selected by the state convention, with no provision of law as to number and apportionment. There is little or no provision respecting the authority of these party agencies except in Idaho, where they are vested with unusually broad powers of party government as follows: "A county or state committee . . . shall have the power to make its own rules and regulations, and prepare and announce party principles and platforms, call platform conventions, elect delegates to platform conventions, county, state, or national, provide for the election of such delegates otherwise . . . and may perform the other functions inherent in such organizations by virtue of law or custom not inconsistent with the terms of this law."

Delegate conventions, county and state, form an integral part of the system of party organization and government in California and Michigan, but not in Idaho. The county convention in both states is composed of delegates elected at the primary by the party voters, their number and apportionment being left to the county committee. In California these delegates constitute the county convention during a period of two years. In Michigan, but not in California, the conventions of a party in the different counties must all meet on the same day. The chief purpose of this body, in addition to selecting the county committee, is to elect delegates to the state convention. The state committee in each state determines the size of the state convention and the representation of each county therein, but in Michigan delegates must be apportioned to the various counties according to the party vote cast by each. This body exists in California not only to elect state committeemen and delegates to the national convention, but also "for the purpose of promulgating platforms and transacting such other business of the party as is not inconsistent with the provisions of this act." Aside from selecting the state committee, the

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only prescribed function of the state convention in Michigan is that of nominating candidates for the state offices excepted from the operation of the direct primary. The statute contains no reference to platform-making nor the selection of delegates to national conventions, leaving both entirely to party usage.

The Idaho law presumes and authorizes, but does not command, the holding of both state and county platform conventions of party delegates, each on a specified day, the state convention *preceding* those in the counties. The apportionment, and method of choice, of delegates are left entirely to the state and county committees respectively. The platform any convention announces is to be adopted by majority vote and made public within a set time. If any such platform convention is not called within one week after the primary election, it then becomes the "duty" of the party nominees for state or county offices as the case may be, to meet and "make and announce a platform of party principles."

Of these nine primary laws, that of Maryland, the sole representative of the third group, unites the largest degree of party autonomy in organization and procedure with an unsurpassed degree of party democracy in government. All delegates to state conventions or to those of any political subdivision, and, with the exception of the state committee, all "party executives or managing bodies or executive committees, of any sort whatever" are to be elected directly by the members of the party. Every element of the system of party organization is left to party usage, except for the requirement of a state convention, and a like body in each of the five counties where direct nominations are optional. The procedure of all party governing bodies is practically unregulated, aside from that of state conventions in nominating candidates for state offices. In addition to the function just named, these conventions "shall also have the power to select, in such manner as they may determine, delegates to national conventions and presidential electors and the governing bodies of . . . political parties for the State" as a whole. As in Michigan there is no reference to the issuance of any platform of party principles.

In amending their primary laws in 1909, two states made important changes with respect to party organization. Oklahoma completely abolished the uniform system prescribed by her first primary law, leaving each party free to organize as usage and discretion may dictate. Nebraska reëstablished the former caucus and convention system of organization, with not a single party representative chosen by the

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party voters at the primary election, and also provided for an innovation; namely, a platform convention held *prior* to the primary election, and expressly forbidden to take any action regarding candidates for nomination.

The acts of four of these states contain provisions regulating campaign contributions, expenditures, or political advertising in connection with primary elections.[13] Colorado prohibits contributions to the expenses of any candidate by any "person, copartnership, organization, or corporation." California, Colorado, and Idaho limit expenditures both as to the amount to be spent and as to the purposes for which they may be used. They also provide for publicity through the filing of sworn itemized statements of all expenditures. In Idaho any expenditure for other than defined "personal expenses" not only renders the person liable to criminal prosecution, but also disqualifies from becoming a candidate for office or from holding office if elected. Michigan does not directly limit expenditures, but does indirectly by advanced regulation of political advertising. The posting of campaign cards or other political advertising matter is prohibited. The size of political cards or other matter for distribution, and also of any published likeness of a candidate for nomination, is strictly limited. Aside from such personal cards, circulars, etc., the avenues of political advertising are restricted to "a daily, weekly, or monthly newspaper which has been regularly and bona fide published and circulated for at least three months . . ." The size of type to be used is regulated, and the price paid is not to exceed that charged others for non-political advertising. On the other hand, Oklahoma, in 1909, repealed completely the provisions of her law respecting political advertising in newspapers.

LEON E. AYLSWORTH.

Tax Legislation.[1] Many important changes in constitutional provisions and in the statutes relating to taxation and assessment, have been made during the past twelve months. These changes are in some cases the direct result of the annual conferences held since

[13] In Maryland this ground had already been covered in her corrupt practices act of 1908.

[1] This summary of tax legislation during the last twelve months is adapted from an address on this subject at the Fifth Annual Conference of the National Tax Association, Richmond, Va., September 5–8, 1911, by A. C. Pleydell, secretary of the Association, New York City.

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1907 by the International (now National) Tax Association, and, in general, carry out policies that have been recommended by these conferences in formal resolutions and advocated in the addresses and discussions.

The leading tax provision of the new Arizona constitution follows the resolution of the first conference in 1907, inasmuch as it imposes no restraint upon the classification of property. The California constitutional amendment taxes public service corporation property as a whole, conforming to the resolution of the second conference favoring assessment of such corporations by the smallest possible number of assessing boards; and also provides a plan of separation of state and local revenue. The New York inheritance tax amendments follow the provisions of the model inheritance tax law endorsed at the fourth conference last year, and conform to the resolutions adopted at the first conference in regard to interstate comity and the avoidance of double taxation. The taxation of moneys and credits in Iowa and Minnesota has been changed and a low, fixed annual rate adopted, thus following the various recommendations and reports at the different conferences regarding the failure of the general property tax system, and the desirability of classifying property. The New York secured debt law goes a step further and substitutes a specific tax upon bonds and securities in place of the general property assessment.

Constitutional Provisions. Constitutional conventions were held last year in Arizona and New Mexico for the purpose of framing constitutions to govern these states when admitted. A memorial on the subject of constitutional restraints on the taxing power, was prepared, on behalf of the International Tax Association, and submitted to the officers and delegates of the conventions. This memorial recited the resolution adopted at the conference of 1907 to the effect that state constitutions should not contain restraints upon the reasonable classification of property, and submitted the following text as the sole provision necessary to be embodied in a constitution, on the matter of taxation.

"The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only."

That provision was adopted, without change, as section 1 of article 9 of the Arizona constitution. While that article contains other

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provisions relative to taxation, we do not believe that any of these conflict with the purpose of the provision above recited.

California made a radical fiscal change by adopting a constitutional amendment that changes entirely the taxation of public service corporations and also practically establishes a separation of state and local revenue. This is the result of an investigation begun in 1906 by a special tax commission of which Prof. Carl C. Plehn is secretary, and the amendment carries out their recommendations. It provides for state taxation of public service corporations and the exemption of their operating property and franchises from local assessment and taxation. The state tax is based upon gross earnings and the rates are fixed in the amendment but may be changed by a two-thirds vote of the legislature.

The rates vary on different classes of corporations, from two per cent to four per cent. They were determined by taking each class of corporations, as, for example, street railways or electric light companies, and ascertaining the total burden of state and local taxation upon all companies in that class under the general property tax. The total gross earnings of all companies in a class were then ascertained, and a gross earnings tax rate fixed which would produce the same total revenue from the same class of companies as the general property tax. Insurance companies are taxed 1 1-2 per cent on gross premiums, and banks one per cent on capital, surplus, and undivided profits. There is also a state tax of one per cent on the "franchises" (to do business) of other corporations. The act of April 1, 1911, carries out the details of the amendment.

California has had heretofore a comparatively heavy "direct state tax," and the state revenue from the gross earnings tax is expected to reduce the state direct tax sufficiently to offset the loss of such corporation property from the local tax rolls.

Oregon, also, voted upon constitutional amendments in November, 1910, and the situation there is a curious one.

Two amendments were submitted by the legislature, designed to repeal the requirement of uniform taxation of all property and to permit the legislature to classify property for taxation at different rates or to exempt as it saw fit. A third amendment was submitted by initiative petition. This amendment provided, first, that no poll tax should be imposed; second, that no law enacted by the legislature in regard to taxation should become effective until ratified by the people at the next general election; third, that no restriction of the

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constitution should apply to any measure relating to taxation or exemption, approved by the people, whether passed by the legislature or submitted by initiative petition; fourth, it empowered the people of the several counties "to regulate taxation and exemptions within their several counties, subject to any general law which may be hereafter enacted."

The two amendments proposed by the legislature were defeated, and the one proposed by initiative petition was adopted by a narrow margin.

The underlying purpose of this amendment was to provide complete county option, but no enabling machinery was provided and opinions on both sides differ as to whether existing laws will cover such an election. Even had the legislature desired to provide such machinery its hands were tied by the provision that no tax legislation can be effective until ratified at the next general election. The amendment prevents all progress until the fall election of 1912 and there was no tax legislation this year.

The legislature has resubmitted to the people two amendments practically identical with those defeated last year, and designed to give the legislature a free hand in dealing with tax matters. It has also submitted an amendment repealing the one adopted last year with the exception of the provision relating to the poll tax.

Changes in Tax Laws. The changes of general interest made in the statutes may be divided into three groups, those affecting personal property; those affecting inheritances; and those affecting administration.

Personal Property Tax. Iowa placed moneys and credits in a special class to be taxed, after making an offset for debts, at a rate uniform through the state of five mills. The tax is assessed and collected where the owner resides, and divided upon the same pro rata basis among various funds as other taxes collected in such district. This law does not apply to banking capital or shares. The tax ferret law of 1900 and all acts giving local officials the power to employ ferrets, was repealed.

Michigan enacted a mortgage-recording tax of 50 cents on the $100, similar to the New York law, and exempting mortgages from local assessment.

Minnesota enacted an annual tax of three mills on the fair cash value of "money and credits" in lieu of all other taxes. "Money" includes all forms of currency in common use, and bank deposits.

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"Credits" include "every claim or demand for money or other valuable thing, every annuity or sum receivable at stated periods, due or to become due, and all claims and demands secured by *unrecorded* deed or mortgage, due or to become due." The former offset for debts has been repealed, and no deduction is allowed.

These forms of personal property are listed, assessed and equalized separately from other classes of property, sworn confidential lists being made out by the persons assessed. In case of failure to make such list, the assessor is given power to fill out the same to the best of his knowledge, and a penalty of fifty per cent is added thereto.

The tax is collected in the same manner as other personal property taxes, and is distributed, one sixth to the revenue fund of the State of Minnesota, one sixth to the county revenue fund, one third to the city, village or town, and one third to the school district in which the property is assessed.

The new law does not include money and credits of banks, bonds and notes secured by mortgage in Minnesota, and state and municipal bonds. Bonds of the State of Minnesota or its governmental subdivisions, hereafter issued, have been exempted from all taxation except the inheritance tax. It should be noted that Minnesota has had for several years a recording tax similar to the New York law, and exempting mortgages on Minnesota real estate from the general property tax.

New Hampshire exempted money loaned at not exceeding five per cent and secured by note or mortgage on real estate in the state.

New York has enacted a flat tax payable once only and to the state, at the rate of one-half per cent on the face value of "secured debts." The term includes all mortgages not recorded in New York and bonds or notes or debentures secured thereby, also unsecured serial bonds, and state and local bonds of other states. The tax is an extension of the mortgage-recording tax plan and supplementary thereto. Payment gives exemption from local taxation. If this state tax is not paid, the secured debts continue to be assessable locally, but without deduction for debt.

Wisconsin has enacted a state graduated income tax, carrying with it exemption of such personal property as moneys and credits, stocks, household furniture and farm machinery. And taxes paid on personal property not exempted, can be deducted from the sum due for income tax.

Exemptions are $800 to an individual income; $1200 to husband and

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wife; $200 for each child under eighteen, or each person for whose support the taxpayer is liable. Incomes of non-residents from property in the state are taxable without exemption. The rates range from one per cent on the first thousand dollars of taxable income, up to six per cent on all above $12,000. The tax is divided, ten per cent to state, twenty per cent to county, and seventy to the town where the income is derived.

Corporation incomes are taxed on a differently graded scale, based on the relation between profits and assets employed. Dividends are then exempted from the individual income tax.

The state tax commission administers the tax and is empowered to appoint income tax assessors, not less than one in each county, for three-year terms. Such assessors will also have the powers of the present county supervisors of assessment over the local assessors.

Bonds of local subdivisions have been exempted by another statute from the property tax.

Ohio seems to have adopted a reactionary attitude in personal property taxation. In that state the law allows debts to be offset against credits only. The legislature passed a bill to define bank deposits or credits (following in this the rule adopted in the State of Washington), but this bill was vetoed by the governor. The legislature also passed a bill amending the law relating to the powers of the state tax commission so that it could not be interpreted to permit the commission to demand from banks and financial institutions the names of their depositors and amounts of their respective deposits. This also was vetoed by the governor.

Despite the notorious failure of the general property tax in Ohio, as evidenced by the reports of its own investigating commission and confirmed by investigators of other states, who held Ohio conditions up as a horrible example to their own states, Ohio seems determined to continue the vain attempt to reach personal property under the general property tax by drastic and inquisitorial methods.

Oklahoma also is experimenting with inquisitorial methods, having adopted a tax ferret law despite the sad experiences of other states.

Inheritance Tax. New York took a pronounced stand in favor of interstate comity in tax matters by exempting certain intangible property of non-resident decedents from the inheritance tax. Other important changes were also made.

Prior to last year, the rates had for a number of years been one per cent on amounts to direct heirs and five per cent to collaterals. If

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less than $10,000 passed to direct heirs, or less than $500 to collateral, the estate was exempt. In 1910 the law was radically changed. The rates were based on the bequest and went up to five per cent on direct and twenty-five per cent on collateral on the excess over $1,000,000. The exemptions were lowered to $5,000 and $500 for direct and $100 for collateral. The double taxation in which New York had been a conspicuous offender was continued and aggravated by the high rates.

This year the law has been amended so that money and securities of non-residents deposited in the state and their shares in New York corporations, are exempt. (Such property is generally liable in the state of the decedent's residence.) This exemption does not depend upon reciprocal provisions of other states but is absolute. It follows the "model law" endorsed by the International Tax Conference in 1910, and stops so far as New York can, double taxation of such property. The high rates of last year have been modified, four and eight per cent being the maximum, and the exemptions are more liberal, though the principle of progressive graded rates has been retained.

In addition, bequests to religious, educational and charitable purposes, outside the state, are given the exemption heretofore confined to bequests to such purposes within the state.

California, on the other hand, has increased its inheritance tax rates until they now reach a maximum of twenty-five per cent on bequests in excess of $500,000 to distant relations and strangers; the greatest rate previously having been fifteen per cent.

Maine has exempted, when owned by non-residents, shares and bonds of corporations organized under its laws, that have less than $1,000 of tangible property in the state.

Iowa and Minnesota have readjusted their rates.

Administration. State Tax Commissions have been created in three states: Colorado, New Hampshire and North Dakota. In general the laws follow the Minnesota and Kansas acts and give broader powers than is possessed by most of the older state tax commissions.

New York has radically changed its method of assessing real estate. Assessments will now be *in rem* everywhere, as they have been in some cities only. Tax maps may be adopted and property assessed by block and lot numbers. The separate assessment plan used in New York City has been extended to all cities in the state. A mathematical rule for equalization by county supervisors between local tax districts has been placed in the statute. The state comptroller is directed to compile annually statistics relating to local taxes and

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expenses and the provisions for sinking funds. The assessment of special franchises has been improved by conferring additional powers upon the state board of tax commissioners.

Oklahoma abolished township assessors and township boards of equalization. County assessors are to be appointed by the governor for next year and their successors are to be elected in November, 1912, and biennially thereafter, for two-year terms. The compensation of the county assessor is graded according to the assessed valuation, and he must pay whatever deputies he appoints. The county commissioners are made a board of equalization of which the assessor is secretary, and have summary power to correct the assessment roll, subject to appeal.

North Carolina increased the powers of the corporation commission (which performs the duties of a tax commission). The commission is to appoint a county assessor in each county for a two-year term, who shall devote not exceeding three months to his work and receive four dollars a day for time actually employed. He is to have general supervision over the township or city assessors, who are appointed by the county commissioners annually.

Michigan restored to the state board of tax commissioners the power (of which they were deprived in 1905) to review assessments in any district on their own initiative, and to order a reassessment.

Ohio enacted a new tax limit law (replacing the law of 1910 that had not yet been applied). This law provides that the total tax rate for all local purposes levied in any district, shall not exceed ten mills ($1 on the $100). Maximum rates are specified for county, city, township, and school purposes, aggregating fifteen mills. A budget commission is established for each county, consisting of the county auditor, the mayor of the largest city in the county and the prosecuting attorney, who pass upon all local appropriations, and if these would require a higher total rate than ten mills the commission is to adjust them as it sees fit to within the limit. Specific increases over the local or the total maximum rate may be authorized by popular vote, but the aggregate tax rate must not exceed fifteen mills. These limits do not seem to include the state "direct" tax which, however, is very small.

The law provides also that the total amount raised in any tax district in 1911 shall not exceed the levy of 1910 by more than six per cent, that raised in 1912 shall not exceed 1910 more than nine per

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cent, and in subsequent years shall not exceed by more than twelve per cent.

The purpose of this legislation is to keep the great increase in valuations (effective this year) from leading to an increase in expenditures. The exact effect of some provisions of the law are in dispute and this summary is only a general description of its intent.

The tax commission law of 1910 was also revised, strengthening the powers of the commission, especially in the enforcement of the "excise" taxes on corporations.

Miscellaneous. Special tax commissions have been authorized in several states. In Michigan a commission of three members, investigating particularly corporation taxes, was appointed and is nearly ready to report. In Utah a commission of three was authorized to revise the revenue laws of the state. In Iowa a commission of five was authorized and appointed to investigate taxation generally, and report to the governor in October, 1912.

In Connecticut the governor is directed to appoint a commission of three to examine into the methods of taxation of railways and street railways, and of other corporations paying taxes to the state, to report in 1912.

The Pennsylvania commission of 1909 submitted a report and was continued. The Rhode Island commission of 1909 submitted a second report and continues. Delaware authorized a commission, to report in 1913; this is a continuation of the 1907 commission. The Maryland and Virginia commissions of 1910 continue and report in 1912.

Idaho has given an exemption of $200 to all buildings.

In Pennsylvania the classification of real estate within city limits into city, suburban and agricultural, to be taxed at varying rates, was abolished in second-class cities (Pittsburgh and Scranton), but continues in Philadelphia. The system had produced most glaring inequalities. Ontario also abolished a somewhat similar "farm land exemption" in cities.

While not, perhaps, strictly tax legislation, two other matters affecting public revenues may be of interest.

Massachusetts and New York will submit to the people this fall, constitutional amendments designed to permit "excess condemnation." That is, to empower a city, subject to general law, to condemn more land than is actually needed for a public improvement such as a new street or park. Massachusetts limits the area to a depth sufficient for building lots. The purpose is to give the city control over the

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development of such abutting property by perhaps reshaping the lot lines, and also to get back some of the cost of such an improvement by leasing or selling this property at an increased value due to the improvement.

The provincial legislature of Ontario, not being hampered by constitutional limitations, enacted a statute giving cities broad powers of "excess condemnation."

The new conservation law of New York provides (among other things) for the building of reservoirs and development of water-power to be leased by the state, and provides also that the cost of such improvement may be assessed upon either individual property or upon an entire district deemed to profit thereby.

This general summary of tax legislation does not include all tax law changes, and some omitted may be more important to the locality or interest affected, than others which have been included because they illustrate general tendencies rather than because they are in themselves important.

These tendencies may be summed up briefly. First, greater freedom for legislatures from constitutional restraints on the taxing power; second, a recognition of the failure of the general property tax, and the substitution of classification for the so-called "uniform rule"; third, changes from *ad valorem* to specific taxes; fourth, to improve assessment by establishing state tax commissions with supervisory powers, and also by improving local assessment conditions.

A. C. PLEYDELL.

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CURRENT MUNICIPAL AFFAIRS

WILLIAM BENNETT MUNRO

The Metropolitan Plan Commission appointed by the Governor of Massachusetts under statutory authority given to him at the last legislative session, has announced in general form the chief recommendations which it proposes to incorporate in its forthcoming report. This commission, which consists of Edward A. Filene, J. Randolph Coolidge, Jr., and John Nolen, has made a careful study of municipal planning boards and their operations in European and American cities. Their provisional recommendations are for the establishment of a permanent state commission with planning jurisdiction over the Boston Metropolitan District which comprises thirty-eight cities and towns. This permanent commission would be composed of five members, three to be appointed by the Governor of Massachusetts and two by the Mayor of Boston, the chairman to have a salary of $10,000 per annum and the other members to be paid $1,000 each. It is proposed to give this commission a general supervisory authority over the planning of all streets, parks, boulevards, and similar public works throughout the Metropolitan District; the commission would be expected to draft a comprehensive scheme of future development covering all construction undertaken out of public moneys whether by the state or by any municipality. It is not proposed that the Metropolitan Plan Commission, if established on a permanent basis, shall have any power directly to undertake improvement projects or to compel any municipality to put its plans into operation; but it would be given power to interpose a temporary veto upon all municipal construction not in harmony with general plans for the whole metropolitan district. It is further proposed that towards the cost of all metropolitan enterprises undertaken in conformity with plans of the commission, a grant of ten per cent of the estimated expense shall be made from the state treasury. All these recommendations have been incorporated in a bill which will come before the Massachusetts legislature early in 1912.

The November election campaign in Philadelphia resulted in the choice of Mr. Rudolph Blankenburg as mayor of the city. At the

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primary election which preceded the regular polling, the regular Republican organization chose as the head of its ticket Mr. George H. Earle, Jr. The support given to this candidate at the primaries indicated the likelihood of his election; but the vacillating course which he pursued during the weeks preceding the election and the public opposition which was aroused against the so-termed Penrose machine served greatly to weaken his support. Mr. Blankenburg, who represented the anti-machine influences of the city, won by a substantial majority, although somewhat to the surprise of his own chief sponsors. The outcome is a signal triumph for the cause of improved civic administration in Philadelphia where an unscrupulous group of Republican politicians have for many years exerted far too much influence at City Hall. Mr. Blankenburg is the first Philadelphia mayor in recent years to go into office without pledges to any party organization and his administration has at the outset shown promise of striking success. A significant feature of the new régime is the readiness with which the higher city officials are enlisting the coöperation of the Philadelphia Bureau of Municipal Research in a study of the finances of the city. The Bureau in connection with this work has issued a comprehensive digest of the city's budget estimates for 1912, which forms a printed document of over one hundred and sixty pages.

On November 8, at the regular municipal election, the voters of Cleveland ratified certain amendments to an ordinance passed December 18, 1909, and known as the Tayler Grant, entitled "An ordinance giving a renewal of the street railway grants of the Cleveland Railway Company, fixing the time and conditions of such renewal grant, changing the rates of fare, regulating transfers, and terminating existing grants." These amendments may be summarized as follows: Section 16, as amended, provides that the capital value of the company's property for the purposes of fixing the rate of fare and determining the return to the company and the price at which the property may be purchased by the city, shall consist of the bonded indebtedness, the floating indebtedness, and the residue of the capital value in the sum of $14,675,600. Additions to the capital value may be made pursuant to the terms of the ordinance. Section 19 creates an interest fund, in its inception to consist of $500,000, to which shall be added monthly the sum remaining after the deduction from gross receipts of eleven and one half cents per car mile for each revenue mile and sixty per cent of that for trailers, together with the amounts

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deducted from gross receipts for maintenance, renewal, and depreciation accounts. From the fund thus provided, taxes, interest, and dividends are to be paid as required in the ordinance—interest on bonds at the rate of five per cent per annum, on floating debt at six per cent, and on the residue of the capital value at six per cent per annum. Section 21 provides that the foregoing amounts per car mile may be changed, if necessary, by agreement between the company and the city. Such changes may be required to enable the company to meet its legitimate operating expenses. On the other hand, any surplus remaining unexpended for operating expenses at the end of a year must be turned into the interest fund. Section 28 gives to the company and the city the right to propose extensions, betterments, and permanent improvements under specific conditions. The proposals made by the company must be ratified by the city council while those advanced by the city must be carried into execution, unless the company contends that it is unable to secure the requisite funds in which case there shall be an arbitration of the matter. The same section provides that immediately on the taking effect of the ordinance the company shall expend $2,500,000 in such improvements as may be designated by the city. Nothing is to be added to the capital value of the property on account of the aforementioned improvements without the consent of the city. In section 32, the company by acceptance of the ordinance, agrees with the city that the latter at any time during the grant or any renewal of it, may exercise the right to take over the system, operated by the Cleveland Railway Co., by serving six months' notice of such an intention. The price shall include the capital value of the property plus ten per cent, the city at the same time assuming all the obligations of the company, enumerated in detail in the ordinance. If the city shall not have purchased at the expiration of the grant, it may then do so under the same conditions as above set forth, except that the ten per cent shall not be added to the capital value and the value of those parts of the system lying without the city shall be deducted and the city may require such outlying parts of the system to be conveyed to such person or corporation as it may designate. Finally, if at the expiration of this grant franchises shall be granted to others than the existing company to operate over its lines, the said companies shall be obliged to purchase the property owned by the existing company upon the same terms laid down for the city.

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The New York Bureau of Municipal Research has been enabled through gifts from Mrs. E. H. Harriman and others to establish a school for the training of municipal experts. As plans for the new school have so far been formulated, it is proposed to enroll four classes of students: (a) college graduates who desire a year or two of general training in municipal research before entering some form of public service or social work; (b) accountants who desire to qualify themselves by professional training as experts in municipal accounting and public finance; (c) superintendents of schools, secretaries of boards of trade, heads of civic organizations and others who desire to supplement their previous training by contact with practical problems of city government, and (d) advanced students of economics, sociology and government who desire to pursue studies involving special research and requiring skilled guidance. The curriculum proposed will include instruction in the analyzing of budget estimates and the drafting of city charters, practice in municipal accounting and in the preparation of official statements.

A portion of the funds at the disposal of the Bureau will be available for the publication of results obtained and data gathered by students. It is announced that the chief purpose of the school will be to give its students such general and special training as will fit them to serve capably in various branches of the municipal service.

The seventeenth annual meeting of the National Municipal League and Conference for Good City Government was held at Richmond, Va., during the week beginning November 13. The annual address of the President, Hon. William Dudley Foulke, was entitled "Effective Municipal Government." It was chiefly a description of the organization of the municipal achievements of Frankfort-on-the-Main and contained various suggestions concerning the adaptation of certain German methods to American conditions. Hon. Charles J. Bonaparte gave an address upon "Municipal Civil Service Reform" and a paper on "Antitoxin for Municipal Waste and Corruption" by Richard H. Dana of Cambridge, Mass., dealt with the same topic. The subject of excess condemnation and special assessments was discussed in a paper by Lawson Purdy, president of the Board of Taxes and Assessment of New York, and Professor Robert C. Brooks of the University of Cincinnati presented a study of the "German Imperial Unearned Increment Tax." A session was devoted to public service franchises and a committee of the League which has been studying

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this general subject for the last two or three years presented a report through Hon. Robert Treat Paine of Boston, its chairman. Other committees of the League likewise presented their reports on the police and liquor problems. At a session on budget-making and allied subjects an exhaustive paper on the subject of the "Massachusetts Law on Municipal Indebtedness" was read by Charles F. Gettemy of Boston, director of the Massachusetts Bureau of Statistics. Hon. Harvey N. Shepard of Boston also discussed the relation between the Massachusetts city and the state, pointing out the entire dependence of the city upon special statutes for even its most elementary powers. An afternoon was given over to direct legislation and preferential voting, with a paper on the former subject by Dr. W. E. Rappard and on the latter by Mr. R. M. Hull of Harvard University. There were several round-table discussions, one of which dealt with commission government.

At the annual business meeting of the League a new constitution was adopted. A council which will hereafter take the place of the old executive committee was established. It was decided that honorary members might be hereafter elected to the League at its annual meetings, and Hon. James Bryce was chosen as the League's first honorary member. Plans for the publication of a National Municipal Review, to appear quarterly, were completed, and the first number of the periodical appeared early in January. The following officers were elected for the ensuing year: president, William Dudley Foulke; vice-presidents, A. Lawrence Lowell, George McAneny, Camillus G. Kidder, Charles Richardson, H. D. W. English, Jane Addams, William Kent; treasurer, George Burnham, Jr.; secretary, Clinton Rogers Woodruff; chairman of Council, Albert Bushnell Hart. The next convention of the League is to be held at Los Angeles, Cal., in the summer of 1912.

A feature of the National Municipal League's convention at Richmond was the conference of civic secretaries held in connection with it. This conference was attended by secretaries of city clubs, good government associations, local improvement leagues, and other civic organizations in different parts of the country, about forty in all. Many matters of common interest were discussed and it is intended to make the conference an annual affair in the hope that it will serve as a clearing-house for the exchange of ideas concerning effective methods of civic service.

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At the recent meeting of the American Political Science Association in Buffalo the evening session of Thursday, December 28, was devoted to a discussion of "The County Problem in Municipal Government." Papers were presented on "City and County in New England" by Prof. O. C. Hormell of Bowdoin College, "The City-County Problem in New York City" by Mr. A. C. Ludington of New York, "Chicago and Cook County" by Mr. F. D. Bramhall of the University of Chicago, and "City and County of San Francisco" by Mr. Percy Long of San Francisco. The general impression left upon the audience by these papers was that problems of county government have had far too little public attention in this country. It was shown, for example, that in some states where civil service regulations had been applied to city officers none of the posts in county government had as yet felt the influence of this reform. Likewise it was pointed out that restrictive legislation in the way of limits upon annual tax rates, upon borrowing and upon its expenditures such as have been applied to cities and towns in various states have not commonly been made applicable to counties at all. The county in fact seems to be the one area of local government in the United States which has not yet felt the pressure of reforming influences. This cannot long remain the case, however, for the relation between city and county is in many cases so intimate that improvements in the administration of the one are certain ultimately to react upon the other.

A tentative agreement has been reached between the city authorities of Detroit and the officers of the Detroit United Railways whereby it is expected the long-standing friction between these two will be brought to an end. By the terms of this agreement the city offers the Detroit United Railways certain franchise extensions until 1924, at which date the company will relinquish all its franchise rights. In return for these extensions the railway company agrees that the city may purchase the street railways at any time upon six months' notice; likewise that reductions in fares will be made at once (eight tickets for a quarter, with universal transfers on all lines from 5 a. m. until 8 p. m., and six tickets for a quarter during other hours); and, finally, that the company will build at least ten miles of new railway each year. These arrangements are the outcome of seven months of constant negotiation during which about sixty conferences were held between the contracting parties. The agreement is tentative only, since it must be accepted both by the stockholders of the Detroit

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United Railways and by the voters of the city before it can go regularly into effect. In the case of the voters a three-fifths majority will be required. But it is anticipated that this can be secured. It is believed that the agreement marks a decisive step in the direction of ultimate municipal ownership.

The movement for wider use of school buildings outside of school hours has begun to show tangible results. By a recent vote of the Cleveland School Board any public school building in the city, not in use for evening classes, may be thrown open for public meetings upon the petition of any fifteen taxpayers. It is stipulated, however, that no sectarian or political meetings which are of a partisan nature shall be held in the school buildings, and that all meetings must be concluded by ten o'clock. The School Committee of Boston has proceeded a step further by throwing open the school buildings under its control to the political meetings of both parties in the recent state election. It is furthermore proposed in this latter city to obtain from the legislature authority to raise each year in the annual tax levy a special sum of money to be used in making the school buildings of the city more useful along lines which are not strictly educational. In this connection it may be mentioned that a volume dealing with the general subject of wider use of school buildings outside of school hours will shortly appear in the National Municipal League's series published by Messrs. D. Appleton & Co.

Beginning with the January number, the monthly Bulletin of the New York Public Library will contain a list of municipal documents received at that institution. The list will appear in that section of the Bulletin which is devoted to recent accessions. For some time past the New York Public Library has made a special effort to obtain complete files of all regularly-printed municipal documents, as well as periodical publications issued by organizations interested in municipal government. Its monthly list should give to students of municipal affairs bibliographical information similar to that afforded, in the field of state government, by the monthly list of state publications issued under the auspices of the Library of Congress. The authorities of the New York Public Library have also under advisement the preparation of a complete list of all municipal data now on their shelves. This project, if carried through, would furnish a useful addition to the

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somewhat meager bibliographical equipment which is at present available to students of municipal government.

The *Kansas City Star*, which journalists concede to be one of the best and fairest newspapers in the United States, has given an emphatic editorial endorsement of the merit system of appointments which has now been applied to the city for somewhat more than a year. The *Star's* verdict is that "the records of every department under the merit system show an increase in efficiency and economy of administration." This statement is accompanied by concrete examples of results obtained. For instance, the license inspectors' office, which collected only $178,379 during the interval between May 1, 1909, to August 1, 1910, was able, under civil service rules, with exactly the same number of officials, to collect $239,627 during the period from May 1, 1910, to August 1, 1911. This, it is believed, proves that the license inspectors, when placed on a permanent footing beyond the reach of political influence, will readily fulfil their duties to the letter. Similar results have been achieved in the auditor's office, where the office expenses were reduced to half what they were before the inauguration of the merit system. In the engineering department, the cost of inspection was reduced from 5.11 per cent to 3.5 per cent of construction outlay. It is not often that we have been able to obtain more exact or more convincing testimony concerning the immediate benefits of civil service provisions applied to city departments.

The Asquith government has under consideration, it is understood, a comprehensive project for a reorganization of London government. The new scheme is said to include the following provisions: 1. The enlargement of the boundaries of the County of London to include "Greater London." 2. The control by an enlarged London County Council of all public services such as are at present under its jurisdiction for the County of London. 3. Local jurisdiction in essentially local matters, with delegated powers such as are now exercised by the Metropolitan Borough Councils, by local authorities, the smaller bodies, if necessary, to be amalgamated. 4. A further application of the principle of equalization of rates to be made throughout the whole of the new area. 5. Uniformity in and centralization of valuation and assessment. 6. Control of poor law institutions and expenditure to be vested in a central poor law board with a unified poor rate, local administration to be left either to committees of local

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authorities for general purposes or *ad hoc* committees on the lines of existing boards of guardians. 7. The complete revision of the relations between local taxation and the Imperial Exchequer, the removal of the special grievances under which London at present suffers with regard to the incidence of grants-in-aid, and the simplification of the existing complex system.

"Greater London," according to the recent census, has a population of 7,252,963. It is coterminous with the Metropolitan Police District, contains an area of 693 square miles, and, in addition to the County of London, includes the whole of the County of Middlesex and parts of the Counties of Herts, Kent, Essex and Surrey. It also comprises, apart from the existing London authorities, two county boroughs (Croyden and West Ham), seven municipal boroughs, fifty-nine entire and parts of two other urban districts, six entire and parts of eight other rural districts, twenty-seven elementary education authorities, apart from the County Councils, and ten entire and parts of nine other Boards of Guardians. If the scheme matures London will have an addition to its population of two and three-quarters million persons and an increased area of nearly six hundred acres. The county boundaries will extend from Epsom on the south to Hatfield on the north, and from Erith on the east to Uxbridge on the west. It is obvious that so vast a change in local government cannot be brought about without the settlement of a very great number of difficult questions and the adjustment of a multitude of intricate problems. The framing of appropriate legislation will therefore form a task which will engage the attention of the government for a year or two at least.

Three important public documents relating to English municipal affairs and covering the year 1910–11 have been issued from the press of Messrs. P. S. King & Son, London. These are the *Fortieth Annual Report of the Local Government Board*, which deals with several new administrative experiments including the Unemployed Workmen Act and the Old Age Pension Act; the *Report of the Metropolitan Police Commissioner of London*, which gives special attention this year to the Department of Criminal Investigation, and to such topics as the regulation of public carriages and the maintenance of the health of the police officers; and Volume XXI of *London Statistics* which gives figures for the year 1910–11 on the undermentioned topics: machinery of public administration in London, census statistics, vital statistics, meteorological records, labor, pauperism, lack of employment, public health,

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hospitals, housing, public baths, parks, lunacy, theatres, police, fires, education, highways, tramways, port of London, water supply, gas, electricity, rates, debt, valuation, and old age pensions.

Important publications relating to city planning in the United States are the following: *A City Plan for Rochester.* The report prepared for the Rochester Civic Improvement Committee, by Arnold W. Brunner, Frederick Law Olmsted, and Bion J. Arnold (Rochester, New York, 1911, 41 pages). This report relates particularly to the central part of the city, contains many suggestions for the utilization of land for parks and playgrounds, and is well illustrated with maps and plans. *A Plan of Seattle.* Report of the Municipal Plans Commission, submitting the report of Virgil G. Bogue, Engineer (Seattle, Washington: 1911, 235 pages). A general summary is given of civic progress in other cities, and is followed by a report on the following subjects with reference to Seattle: arterial highways, civic center, parks, boulevards, playgounds, municipal improvements, harbor improvements, the ten sections of the port, the central waterfront, and transportation. The report contains 81 maps and illustrations both of Seattle and of other cities in this country and abroad. *Madison; A Model City.* By John Nolen (Boston, 1911, 168 pages). A report to the Directors of the Madison Park and Pleasure Drive Association and the Citizens' Committee, taking up Madison as a capital city, as an educational center, as a place of residence, and as to its future development. There are many illustrations, maps, and plans relating to Madison. *A Preliminary Report for a City Plan for Grand Rapids.* By A. W. Brunner and J. M. Carrere (Grand Rapids: Dickinson Bros., 1909. pp. 47). This report was submitted to the City Plan Commission of Grand Rapids and contains illustrations and plans. *The Width and Arrangement of Streets; A Study in Town Planning.* By C. M. Robinson. (New York: The Engineering News Publishing Co., 1911. pp. x, 199). *Pittsburgh. Main Thoroughfares and the Down-Town District. Improvements Necessary to Meet the City's Present and Future Needs.* A report by Frederick Law Olmsted (Pittsburgh: Pittsburgh Civic Commission, 1911. pp. 169).

Some recent American publications in the general field of municipal government and administration are as follows: C. L. King, *The History of the Government of Denver, with special reference to its Relations with Public Service Corporations* (Denver: Fisher Book Company,

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1911. pp. xvi, 322); Eugene McQuillin, *A Treatise on the Law of Municipal Corporations* (2 vols. Chicago: Callaghan & Co., 1911); J. W. Hobbs, *Police Examinations and General Information; A Key and Guide to Department Promotions and State Police Appointments* (Boston: Puritan Press, 1911. pp. 172); John Goodell, *Water Works for Small Cities and Towns* (New York: 1911. pp. 281); B. C. Marsh, *Taxation of Land Values in American Cities* (New York: 1911. pp. 112); John W. Bookwalter, *Rural versus Urban; their Conflict and its Causes* (New York: Knickerbocker Press, 1910. pp. 292); E. E. Pratt, *Industrial Causes of Congestion of Population in New York City* (New York: Columbia University, 1911. pp. 259); and Charles A. Nichols, *Municipal Manual of the City of Detroit* (Detroit: 1911).

The H. W. Wilson Company of Minneapolis, which has already printed in its Debaters' Handbook Series small volumes containing selected readings on *Commission Government* and the *Initiative and Referendum*, has issued a book of *Selected Articles on Municipal Ownership*, compiled by J. E. Morgan and E. D. Bullock (Minneapolis: 1911. pp. xxiv, 219). The selections are accompanied by a full bibliography.

Mr. Maurice B. Dean of the New York Bar, who is well known to lawyers as the author of Dean's Digest of Corporation Cases, has recently published a useful small volume entitled *Municipal Bonds Held Void* (New York: 1911. pp. 122). The book contains a summary of every decision (over five hundred of them) in which American courts have held municipal bonds to be void or have enjoined their issue or denied their certification. The cases are arranged alphabetically by states and give not only the amount of bond issue concerned, but a statement of the principle which underlies the decision and an accurate citation of the case. Much of this information has never before been brought together, and the book will undoubtedly prove of much value to persons interested in municipal finance, as well as to investors in municipal securities. The volume includes three elaborate tables illustrating by states the chief results of the author's study.

It may be interesting to mention that the states in which municipal bonds have never been held void are Connecticut, Delaware, Florida, Georgia, Idaho, Massachusetts, Maine, Montana, New Hampshire, Nevada, Ohio, Oregon, Rhode Island, Utah, Vermont, Wyoming. In

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the other states and territories bonds to the extent of slightly more than two millions of dollars have been held absolutely void after issuance and delivery. The issue of securities, after proposals for their purchase had been accepted, was enjoined in the case of bond issues amounting to over one hundred and seventy millions.

The November issue of the Annals of the American Academy of Political and Social Science is devoted to a symposium upon the subject of commission government in American cities. There are thirty articles contributed by different writers and covering all phases of the subject. The first part of the symposium deals with the general subject of *Underlying Principles and Typical Plans of Commission Government*, with discussions by Dr. Ernest S. Bradford, Prof. Benjamin F. Shambaugh, Dr. Ford H. MacGregor, Prof. John A. Fairlie and others. The second part is devoted to the *Problems of Commission Government* and contains articles by Dr. Delos F. Wilcox, Dr. Elliot H. Goodwin, Mr. R. S. Childs and others. The third section of the publication discusses the various *Objections, Limitations and Modifications of the Commission Plan*; while Part IV takes up the *Results of Commission Government in Typical Cities* of the West and South.

Messrs. D. Appleton & Co. announce the issue, about March 1, of a volume on *The Initiative, Referendum and Recall.* This book is the second in the series of volumes issued under the auspices of the National Municipal League. It will include selected articles illustrating different points of view upon the subject by Col. Theodore Roosevelt, Gov. Woodrow Wilson, Hon. Robert Treat Paine of Boston, Pres. A. Lawrence Lowell and Prof. L. J. Johnson of Harvard University, Congressman S. W. McCall, Prof. G. H. Haynes of Worcester Polytechnic Institute, Mr. J. N. Teal and Mr. F. V. Holman of Portland, Ore., Mr. Meyer Lissner of Los Angeles, Mr. F. W. Catlett of Seattle, and Mr. H. S. Swan of Columbia University. The volume includes a general introduction by the editor and contains a selected bibliography of works bearing on the subject.

Mr. Harvey S. Chase of Boston, a member of President Taft's Commission on Economy and Efficiency, has printed a useful pamphlet entitled "Business Management of Municipalities" (Boston: 1911. pp. 21). The pamphlet contains a statement of practical results

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obtained from the establishment of modern accounting systems in Massachusetts cities and is one of a series of lectures given by the writer at the Alexander Hamilton Institute, New York.

The Milwaukee Bureau of Economy and Efficiency has issued, since its establishment, ten reports. The first dealt with the *Plan and Methods of the Bureau's Work;* the second with *Alarm Telegraph Systems;* the third and fourth with various wage questions; the fifth with *The Refuse Incinerator;* the sixth with the *Citizens' Free Employment Bureau;* the seventh with *Free Legal Aid;* the eighth with *The Newsboys of Milwaukee;* the ninth contains a *Review of the Bureau's Work;* and the tenth deals with *Plumbing and House Drain Inspection.* Data is being gathered for reports on various other branches of municipal administration, such as the organization of the public works department, water rates, street construction and cleaning, the management of public structures, the collection of ashes and garbage, the methods of purchasing municipal supplies, licenses and permits, the construction and operation of sewers, infant mortality, and several other interesting topics. These publications, when taken together, will represent the results of what is virtually an administrative survey of Milwaukee.

Some interesting facts are discussed in the Bulletin on the Citizens' Free Employment Bureau of Milwaukee to which reference is made in the foregoing item. This Bureau was established in the latter part of March, 1911. During the first three months of its existence 3850 individuals made application for employment. For about 1100 of these employment was obtained by the Bureau, for the most part in unskilled or partly skilled employments. The expense of maintaining the Bureau during the three months was $340 or about thirty-one cents for each person who obtained employment. This expense was borne entirely by the Merchants' and Manufacturers' Association of the city. The conclusions of its officers as set forth in the report are that although popular notions concerning the extent of unemployment in American cities are much exaggerated, there is still a large quest for employment by men honestly desiring work and unable to find it. Various recommendations regarding the policy and methods of a free employment bureau are also made in the report.

Another institution of the same type which has issued since its establishment seven reports on various matters is the Chicago Bureau

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of Public Efficiency. The purposes of this Bureau as stated in its plan of organization are: (1) to scrutinize the systems of accounting maintained by the eight local governments of Chicago; (2) to examine the methods of purchasing materials and supplies and to investigate the letting and execution of contracts for municipal construction; (3) to scan the payrolls of all local governing bodies with a view to detecting overpayment or waste; (4) to make constructive suggestions for improvements in administration and to coöperate with the city officials in the installation of these improved methods; and (5) to furnish the citizens with accurate information concerning public revenues and expenditures, thereby encouraging an interest in efficiency and economy.

The seven reports thus far issued by the Chicago Bureau of Public Efficiency deal with the method of preparing and administering the budget of Cook County (January, 1911); the proposed purchase of voting machines by the Chicago Election Commissioners (May, 1911); street pavements laid in the city of Chicago: an inquiry into paving materials, methods and results (June, 1911); the electrolysis of water pipes in the city of Chicago (July, 1911); the administration of the office of recorder of Cook County, Ill. (September, 1911); a plea for publicity in the office of county treasurer (October, 1911); repairing asphalt pavements (November, 1911).

A municipal reference branch has been established by the Public Library of St. Louis with Mr. Jesse Cunningham, recently of the State Library at Albany, in charge. The reference bureau has been installed in the City Hall and will be maintained for the purpose of supplying municipal information and data to the city assembly and the various administrative departments. The Civic League of St. Louis, which had brought together a large collection of material for its own use, has now turned this over to the Municipal Reference Branch.

During the last few months proposals to adopt commission government charters have been defeated in Pittsfield and Cambridge, Mass., and in Vancouver and Olympia, Wash. Commission government has been adopted by popular vote in Oshkosh, Wis., Sacramento, Cal., Lexington, Ky., Lowell and Lawrence, Mass., Manhattan and Chanute, Kan., Ridgewood, N. J., and Fremont, Mich. Pueblo, Colo., has adopted a commission charter which includes the Grand Junction plan of preferential voting. Bristol, Conn., has adopted a

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new charter which contains some features usually found in the commission plan. The elective officers consist of a mayor, six councilmen, city treasurer, three assessors, two auditors, and a board of relief made up of three members. The idea of the city is to combine the commission method placing the supervision of administration in the hands of a few men with the entrusting of certain technical branches of the service to officials who are directly elected and not subordinate to the commission.

Under the provisions of the New Jersey law permitting the establishment of commission governments in municipalities of that state, nineteen cities have placed the question before their voters. Of these seven have declared for the plan and twelve against it.

The total number of cities having commission government now stands at 163 scattered through 33 different states. In addition active agitations for the adoption of the plan are now being carried on in Omaha, Neb., Portland, Ore., Baltimore, Md., Denver, Colo., Superior, Wis., and Salem, Mass.

From the United States the commission government propaganda has worked over into Canada and proposals for adopting this scheme of administration will shortly go before the voters of two Canadian cities. One of these is St. John, N. B., which some months ago voted to permit the preparation of a commission charter and the presentation of this to the voters at a later date for decision. The other is Ottawa, Ont., the Dominion capital, where the question will be presented to the voters at the coming annual election. The proposed St. John charter contains provision for the initiative, referendum and recall.

Of the large number of cities which have had experience with the commission form of government during the last few years, only one as yet has voted to re-establish the system of government by a mayor and aldermen. This is the city of Chelsea, Mass., which, since the fire of four years ago, has been ruled by a commission of five members who were originally appointed by the Governor. At the November elections the voters were called upon to decide whether they wished to continue this commission with the elective membership or to re-establish the system of government by a mayor and a single-chambered council. The latter alternative was adopted by a small majority.

The outcome of the municipal election in Cincinnati on November 8 was a notable victory for the cause of good city government in the

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Middle West. Cincinnati has long been at the mercy of a reckless political machine which has never hesitated to use the city patronage for its own partisan purposes. Mr. Henry Hunt, who has just been elected mayor of the city, was a candidate on the Democratic ticket, but he drew the support of a large number of Republicans. His candidacy was backed by various civic and reform organizations.

The short ballot committee of the Municipal Association of Cleveland has printed a careful report upon the need of a short ballot in Ohio. The report discusses the advisability of reducing the number of state, county, and municipal elective officers from about seventy-five (the present total in Cleveland) to less than twenty-five.

At the election of November 8 the voters of Cleveland, by the necessary two-thirds majority, approved a bond issue amounting to two millions of dollars, the proceeds of which are to be expended for the erection of a municipal electric lighting plant which will provide not only for the illumination of the public streets and buildings, but will supply light and power for private use.

Mayor Carter Harrison of Chicago has approved the plan for the establishment of a Housing Bureau in the city's Health Department, this bureau to have the services of sixty additional inspectors who will make a careful examination of tenement house conditions throughout the city. This action was urged upon the mayor by a number of civic organizations.

In accordance with the suggestion by Mayor Gaynor, the New York Board of Aldermen reduced by over eight millions of dollars the expenditure budget submitted by the Board of Estimate and Apportionment. Among the chief departments to which this retrenchment was applied is the Department of Education, in which the estimates were heavily cut at several points. Hitherto the Board of Aldermen has been more prone to raise than to lower figures submitted to it. In the present instance, the action is presumed to show the existence of an understanding between Mayor Gaynor and the Board in a joint effort to out-general the Board of Estimate and Apportionment which alone of the three is not under Tammany influence.

The Department of Health of New York City has been encouraged during the last few months in the task of investigating and overhauling the conditions under which a large part of the baking is done in the more crowded sections of the city. Over two thousand bakeries have been inspected by officials of the department, the inspection covering such things as the quality of the materials used and the con-

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ditions under which the making of bread is carried on. The inspectors found the situation in many cases to be intolerable from a sanitary point of view and used their plenary powers to close up about a score of the most unsanitary establishments. Most of the others were required to make important changes in their methods or appliances.

The Third Annual Convention of the Commission Government Association of New York State was held at New York on October 13. The president of the Association, Professor H. S. Fairchild of the University of Rochester, gave his annual address on "Causes of Bad Government in America," attributing municipal shortcomings chiefly to the spoils system and lack of publicity. An address by Hon. George L. Record of Jersey City on "The Primary and Election Law Reform" was one of the features of the convention.

In San Francisco the new Rolph administration, which assumed its duties on January 8, has pledged itself to bring about certain changes in the existing system of city government which will mark a radical departure from the actual methods hitherto practised in the city, although it will not appreciably change the general framework of government. Under the new proposals the chief governing organ of San Francisco will continue to be the Board of Supervisors, composed of eighteen elective members. Each supervisor, however, will be placed in charge of some department of city and county affairs and in the management of this department will have the assistance of a committee. It will be noticed that this change would bring the administration of San Francisco a long way in the direction of full similarity to existing machinery and methods of administration in German cities.

The electors of Los Angeles, Cal., voted at their recent election, upon a proposal to establish a municipal newspaper. The proposal was placed upon the ballot by means of an initiative petition. The suggestion was for the appointment of a committee of three members to undertake the publication, which would be financed by city funds. The paper would appear weekly, would be sent free of cost to every voter and would be non-partisan in attitude.

A movement has been set afoot for the consolidation of Los Angeles and Pasadena. Both cities have difficult water-supply problems confronting them and it is felt in some quarters that united action in the solution of these ought to be secured.

There have been consolidated into one large commercial organiza-

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tion, called the San Francisco Chamber of Commerce, what were formerly the Chamber of Commerce, the Merchants' Association, and the Downtown Association. Before this consolidation the commercial interests of San Francisco were not able to exert an influence in keeping with their numbers and importance, and it is proposed to secure this through a merger of organizations similar to that which was effected in Boston a few years ago.

San Diego, Cal., has taken up scientific forestry as a municipal enterprise. The city owns approximately seven thousand acres of land suited for forestry development and it has made a beginning in this direction by setting out during the past year forty thousand seedlings.

Everett, Wash., voted on November 7 to establish the single tax system as one of its normal methods of raising municipal revenue, and in Seattle an initiative petition has been circulated asking for a vote upon the same question. In Vancouver, B. C., the system has been in operation for some two or three years.

The League of California Municipalities has strongly endorsed the policy of local option in matters of municipal taxation. At its last meeting a committee of three members was appointed to draft a constitutional amendment which, if adopted, would give each California city a right to determine the scope and incidence of its own local taxation.

By the action of the voters in November the constitution of Massachusetts was amended to provide that hereafter cities might be given statutory authority to take larger areas of private property than that actually required for the widening of public thoroughfares. This amendment is intended to facilitate various street reconstruction projects which are shortly to be undertaken by the city of Boston. A proposed constitutional amendment of somewhat similar import was rejected by the voters of New York.

The annual report of the Boston City Club for 1911 shows the Club's membership to be 3117. In every way the Club has been a very striking success. Although it has been lavish in its provision of entertainment for its members, a surplus of $18,500 is reported for the year. Plans for a new and greatly enlarged club house are now under consideration.

In February, 1910, the Baltimore, Md., Charter Revision Commission, appointed by Ex-Mayor Mahool, submitted its report with a draft of a proposed charter to the legislature, where it failed of

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enactment. The charter provides for a single-branch council to take the place of the bicameral council now existing. It also provides for the merit system. A committee of fifty, appointed by a mass meeting of the business men to consider the question, through a subcommittee, reported an amended draft of the charter in which provision is made for non-partisan nominations and elections and the recall, and also that four members of the Board of Estimates and Awards be elected, the other member being appointed by the mayor.

The City Wide Congress, a body composed of delegates from about sixty-five civic, business, and improvement associations of the city has urged the insertion of the initiative and referendum in the proposed charter. The result is that the charter will be introduced into the legislature as agreed upon by the council of fifty and the initiative and referendum will be submitted as a separate proposition. It is generally understood that the city administration is opposed to the proposed charter, and its adoption, whether submitted to the vote of the people or not, is uncertain.

By a very decisive majority the voters of Ottawa, Canada, expressed on January 1 their approval of the formation of a federal district made up of the Dominion capital and the municipalities immediately adjoining it. The movement for a federal district, somewhat on the Washington plan, was inaugurated early in 1911 by the Ottawa Board of Trade and had its immediate origin in a conviction that the Canadian capital ought to have a sufficiently large area to enable the city to be planned, developed and beautified to the best advantage. The proposal upon which the voters have passed affirmatively is that the new federal district should be governed by a paid commission, partly nominated by the Canadian government and partly elected by the voters of Ottawa, the elective members to be in the majority. Provision is made that the Canadian government shall contribute a fair proportion of the revenue necessary for the federal district and that the district shall continue to be represented in the House of Commons.

Now that the plan has been approved by the voters of the city, provincial and federal legislation both will still be necessary to make it effective, but as yet no assurance has been received from either the Canadian or Ontario government that these authorities will take kindly to the scheme. The reason for the departure from the Washington plan is that Ottawa, besides being the capital of the Dominion,

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is rapidly becoming an important industrial center. The voters of the city are accordingly not ready to hand over to any government commission the exclusive charge of the city's industrial and commercial prospects.

Governor Foss of Massachusetts has appointed, after long delay, the new Directors of the Port of Boston. The chairman of the Directors, who is appointed for five years at a salary of $15,000 a year, is Major General Hugh Bancroft. The board will have the spending of about nine millions of dollars in the development of Boston's harbor facilities and in the encouragement of the city's maritime commerce. Its jurisdiction extends over the entire harbor front of the old Boston metropolitan district.

The Water Department of St. Louis has decided to apply the meter system of charges throughout the whole city. St. Louis has had in operation the flat-rate system of charges and the waste of water has been very great. In making the present change the water commissioner has had the backing of the Board of Public Improvements, but has also had vigorous opposition from all quarters of the city.

Final census returns of urban population and growth in the United States show that there are now fifty American cities with populations exceeding a hundred thousand. Three states have five or more cities in this class, namely, New York, Massachusetts and Ohio. The city showing the greatest percentage of growth is Birmingham, Ala., where the increase has been 245 per cent; next come Los Angeles with 212 per cent, Seattle with 194 per cent, and Spokane with 183 per cent.

A special bulletin on the foreign-born white population of large cities shows that this element increased in New York during the decade 1900–1910 by 665,982, or 52.7 per cent. Persons born in Germany and in Ireland decreased in numbers, the former by 13.9 per cent and the latter by 8.2 per cent. Marked increases took place in the number of persons born in Italy, Russia and Finland, and Austro-Hungary.

Census reports on typhoid death rate in American cities show the lowest rate (8.8 per hundred thousand population) in Cincinnati and the highest rate (45.7) in Milwaukee. The rate in other important cities is New York 11.6, Cleveland 13.7, Philadelphia 17.5, Buffalo 20.4, Detroit 23, and Baltimore 42.

The First Congress of the Canadian Public Health Association was held in McGill University, Montreal, during the second week of December. Delegates were present from all the important Canadian

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cities, and discussions were devoted to water supply, municipal sanitation and housing. The Association will endeavor to follow the lines already marked out by the Royal Sanitary Institute of Great Britian and the American Public Health Association.

The University of Toronto, Canada, has arranged to inaugurate a course of lectures on civic art and town planning as part of the regular instruction in that institution. The course will be given by Thomas H. Mawson, recently of the University of Liverpool.

The city of Juarez in Mexico has undertaken the unique experiment of placing full control of all the city parks and recreation grounds in charge of a board of eight women.

The American Association for Highway Improvements held its first annual congress in Richmond during the third week of November. The programme included papers on various matters relating to municipal construction and contracts.

(For various items in the foregoing pages I am indebted to Prof. W. F. Dodd of the University of Illinois and to Mr. F. W. Dickey of Western Reserve University.—W. B. M.)

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NEWS AND NOTES: PERSONAL AND BIBLIOGRAPHICAL

EDITED BY W. F. DODD

The Eighth Annual Meeting of the American Political Science Association was held December 27–30, 1911, at Buffalo, New York, and Toronto, Ontario. The American Historical and the Mississippi Valley Historical Associations were also in annual meeting at Buffalo at this time, and two joint sessions were held with the former of these societies. The first of these joint meetings was devoted to the addresses of the presidents of the two associations, Governor Baldwin, president of the Political Science Association, taking as his subject "The Progressive Unfolding of the Powers of the United States." His paper is published in full in this issue of the REVIEW. The papers at the second of the joint sessions dealt with Latin-American topics. The papers and discussions at the other sessions of the Political Science Association were devoted respectively to "Courts and Judges as Governing Powers," "State Constitution Making," "The County Problem in Municipal Government," "Efficient State Government," and "Canadian Government," the last topic being discussed at the session which was held in the halls of the University of Toronto. The papers read at these meetings appear in the SUPPLEMENT to this issue of the REVIEW, where will also be found the statement by the Secretary of the matters of business transacted by the Association. The very delightful social entertainment furnished visiting members included a reception and a luncheon by the Buffalo Historical Society, a reception at the Twentieth Century Club, a reception and smoker at the University Club, a smoker and musicale at the Buffalo Club, and a luncheon at the University of Toronto.

Dr. Edward S. Corwin has been elected professor of politics in Princeton University.

During October, 1911, Sir Frederick Pollock delivered the Carpentier lectures at Columbia University, taking as his subject "The Genius of the Common Law." These lectures have been published in book form by the Columbia University Press.

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The library of Marquis Olivart, one of the most complete libraries of international law in existence, has been purchased by Harvard University. Marquis Olivart is known to students of international law by his writings in that field, and by his bibliography of international law, which was made up largely from books in his own possession.

Professor W. W. Willoughby has in press (Baker, Voorhis & Co.) an abridgment of his two-volume treatise on *United States Constitutional Law*, published in 1910. The volume, which will appear early in the spring, is designed for use as a text-book for college and law school classes.

A second edition of Judson's *Law of Interstate Commerce* (T. H. Flood & Co.) is announced.

A French edition of Ostrogorski's *Democracy and Political Parties* has appeared from the press of Calmann-Lévy (Paris, 1912, pp. 728). The work, it will be remembered, is a revised abridgment of the author's two-volume work *Democracy and the Organization of Political Parties*, published in 1902.

Prof. William M. Sloane of Columbia University will occupy the Theodore Roosevelt professorship at the University of Berlin in 1912–13, and will lecture on the History of Political Parties in the United States.

A politics laboratory has been established at Columbia University. Material is being collected illustrative of the actual working of political machinery in federal, state and local government. A collection of ballot forms has been gotten together; legislative manuals, election laws and other materials of a similar class are being accumulated. Current newspapers and periodicals are provided, and the effort is being made to bring the teaching of politics into intimate relation with the present operation of political machinery.

On October 25 to 28, 1911, a national conference on Civic and Social Center Development was held at Madison, Wis. Addresses were made by Governor Francis E. McGovern of Wisconsin, Governor Woodrow Wilson of New Jersey, Governor W. R. Stubbs of Kansas,

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President Van Hise of the University of Wisconsin, Prof. John R. Commons, and a number of others.

The thirty-first annual meeting of the National Civil Service Reform League was held in Philadelphia, December 14 and 15, 1911. The following papers were presented: Improvements in the Administration of the Merit System in New York City, by James Creelman; Relation of Organized Labor to Civil Service Reform, by Samuel B. Donnelly; Situation in Illinois under the new State Civil Service Law, by Wm. B. Moulton; Spoils Raids in New York State, by Robert W. Belcher; Competition for the Expert Administrative Positions in City Government, by Clinton Rogers Woodruff.

The Hart, Schaffner and Marx prize competition has been announced for 1912. The competition is primarily economic in character, but among the subjects suggested as available are several which fall in large part within the field of political science. Correspondence with respect to the matter should be had with Prof. J. Lawrence Laughlin of the University of Chicago.

Yale, Columbia, Johns Hopkins, the University of Virginia, the University of Illinois, and the University of Minnesota have joined in an arrangement to exchange professors with Japan. Japan is to be represented this year by Professor Inazo Nitobe of the First Imperial College of Japan (Tokyo), who plans to spend about a month at each of the American universities with which exchange relations have been established. Professor Nitobe began his exchange professorship at Columbia University in November and December, and his lectures in this country deal with the present conditions and problems of New Japan.

Pursuant to a vote of the electors of Ohio, November, 1910, and to a legislative act in accordance therewith, delegates to a constitutional convention for the purpose of framing a new constitution or revising the present constitution of the state of Ohio, were elected in November, 1911. All the delegates were elected upon non-partisan tickets as required by the law of the state and all were nominated by petition; consequently it may be assumed that in general the delegates were elected either upon personal merit or upon the principal questions which seemed to be at issue in the campaign. The

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initiative and referendum, reform of judicial procedure, and local option in municipal charter making were the principal issues. Those advocating the above came to be classed as Progressives and those opposed as Conservatives, as the campaign progressed. As nearly as can be determined the progressives of various shades of "progressivism" elected two thirds of the membership of the convention. The present constitution of Ohio was adopted sixty years ago and is one of the most rigid and difficult of amendment among the state constitutions. The proceedings of the convention therefore are likely to attract not simply the interest of the people of the state of Ohio, but of students of governmental organization throughout the country.

One of the three delegates from Franklin county in which Columbus, the capital city is situated, is G. W. Knight, professor of American History at Ohio State University, who was nominated and elected on a progressive platform by a voluntary organization of various civic bodies of the county.

A Digest of State Constitutions has been prepared for the use of the Ohio Constitutional Convention which is now sitting; the digest was prepared under the direction of the Municipal Association of Cleveland. The same association has prepared a report on constitutional municipal home rule in Ohio.

Mr. Nelson W. Evans, a delegate in the Ohio Constitutional Convention which is now sitting, prepared and issued before the assembling of the convention *A Model Constitution for the State of Ohio* (pp. 23). It may be of interest to suggest that his proposal contemplates a decided reduction in the number of elected state officers, and a concentration of state executive power in the hands of the governor.

Prof. Roscoe Pound has published in the *Harvard Law Review* (June, December, 1911) two articles that form part of a book which he has in preparation on *Sociological Jurisprudence.*

The first number of the new *Yale Review* appeared in October, 1911. The new journal is primarily literary and critical in character, but an article in the first number by Henry Barrett Learned, on "The Postmaster General," is of interest to students of politics and history.

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A Short History of War and Peace, by G. H. Perris (New York: Henry Holt, pp. 256) is an essay on world history, with some reference to methods of warfare. The author has a concluding chapter on the organization of peace, in which he says that forces making for world peace are: (1) advance in character and quantity of armaments; (2) unification of the commercial life of civilized nations; (3) organization of labor along international lines; and (4) the general tendency among western nations toward an arrest of population through a decreasing birth rate.

The government of the Union of South Africa has issued the *Minutes of Proceedings with Annexes* of the South African National Convention held at Durban, Cape Town and Bloemfontein, 12 Oct., 1908, to 11 May, 1909. (Pp. xxv, 451.) The appendices to this volume contain the South Africa Act and drafts of the proposed measure at various stages, the resolutions of the various parliaments approving the act, and reports of the convention.

The Australian government has recently published a volume containing the *Commonwealth Electoral Act, 1902–1909, and Referendum (Constitution Alteration) Act, 1906–1910*, together with statistical returns in relation to the two proposed constitutional amendments submitted to the people in 1911 (Melbourne Sessional paper No. 2, 1911. Pp. 101). There has also been issued the *Official Year Book of the Commonwealth of Australia 1901–1911* (Melbourne. Pp. xxvii, 1230). This is the fourth issue of the *Year Book* since the organization of the Commonwealth.

In October, 1911, was issued the first number of the *Bulletin of the Departments of History and of Political and Economic Science* in Queen's University, Kingston, Ontario. The first number is a reprint of an article by W. L. Grant on "The Colonial Policy of Chatham (pp. 16)." The *Bulletin* is to be issued quarterly, and the articles appearing therein will be first published in the *Queen's Quarterly*.

The numbers from May to October, 1911, of the *Bulletin* of the New York Public Library, contained a rather complete classified "List of Works relating to Criminology."

The July-August-September number (Vol. 28, No. 3) of the *Revue du droit public et de la science politique* contains much matter of

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interest to students of constitutional law. M. Paul Heitz has an article on the new constitution of Alsace-Lorraine, and the constitutional and electoral laws are printed in French translation; the new constitution of Monaco is printed in full, together with the somewhat elaborate report presented to the Prince of Monaco by the commission of French jurists. In addition there are interesting articles on the debates on the reform of the Italian Senate, by Prof. I. Tambaro; on political representation in France, by M. Georges Scelle; and on immunities and parliamentary discipline, by M. Roger Bonnard.

The *Minutes* of the Constitutional Convention of the Territory of Arizona have been published (Phoenix 1911, pp. 450).

The Virginia State Library has issued a pamphlet containing *Legislative Reference Lists* (pp. 70), prepared for the use of the legislature of 1912 by Mr. Earl G. Swem. The lists, which do not attempt to be exhaustive, relate to a number of subjects, including free textbooks, lobbying and legislative procedure, and workmen's compensation.

A special consular report has been published by the United States government on the Gothenburg system of controlling the liquor traffic (Special Consular Report No. 49, pp. 48). The report gives a brief account of the working of the system, together with a translation of the laws and rules under which the system operates.

During the regular session of the Illinois General Assembly in 1911 the Legislative Voters' League of the state issued weekly bulletins telling briefly and clearly of legislative activities and of the position of the leading members of the House of Representatives and Senate. The Legislative Voters' Association of New York performed a somewhat similar service for their state by frequent reports, which were not printed, however. After the adjournment of the New York legislature in October, 1911, the Legislative Voters' Association of New York issued a report (pp. 21) regarding the legislative session of 1911, and this report sums up briefly the position of representatives and senators upon the more important measures acted upon by the legislature of New York.

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Compilations of election laws have been issued within the past year by the following states: Colorado (pp. 165); Minnesota (pp. 107); Ohio (pp. 260); Rhode Island (pp. 196); Utah (pp. 48); Washington (pp. 70); Nevada (pp. 94).

Among the books recently issued are: *The Reform of Legal Procedure* by Moorfield Storey (Yale University Press); *Social Evolution and Political Theory*, by Leonard T. Hobhouse (Columbia University Press); *The Law of the Employment of Labor*, by Lindley D. Clark (Macmillan); *Control of the Market*, by Bruce Wyman (Moffatt Yard), *The Annexation of Texas*, by Justin H. Smith (Baker and Taylor).

Mr. Herbert A. L. Fisher has republished in three volumes *The Collected Papers of Frederic William Maitland* (Cambridge University Press). All but two of the papers appearing in these volumes had been printed before, but the editor has performed a useful service in bringing together those of Maitland's writings which had not before appeared in the form of independent books.

Georg Jellinek's *Ausgewaehlte Schriften und Reden* have been brought together in two volumes (Berlin: Haering). Of especial interest are a number of chapters of a treatise on constitutional law, which the author had in preparation.

The Bureau of Corporations has issued Part III of its report on the *Taxation of Corporations* (Washington, 1911, pp. x, 109). This part deals with the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The Government Printing Office will soon publish a compilation of federal anti-trust decisions from 1906 to 1911. This compilation will supplement the *Federal Anti-Trust Decisions, 1900–1906*, edited by James A. Finch and published in 1907. (Washington. 2 vols.)

A volume of *Papers on Inter-Racial Problems* has been edited by G. Spiller, honorary organizer of the First Universal Races Congress which met at London, July 26–29, 1911 (Boston: Ginn & Co., pp. xvi, 485). The volume, while of much value to persons interested

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specifically in racial problems, contains not a great deal that is of interest to the political scientist.

A small volume on *Clerical Control in Quebec* has been published by Mr. Edward McChesney Sait (Toronto: Sentinel Pub. Co., pp. 158). Mr. Sait analyzes with care the position of the Catholic church in Quebec, and shows how the church is able to exercise a dominating influence in the political life of that province. He indicates, however, that clerical influence has been declining. Mr. Sait's discussion supplements in a useful manner André Siegfried's *Race Problem in Canada* (London, 1907).

William E. Johnson's *Federal Government and the Liquor Traffic* (American Issue Pub. Co., Westerville, Ohio, pp. 275) is primarily devoted to an argument that the federal government should have no relations whatever with the liquor traffic. However, the volume contains chapters on the customs revenue, internal revenue, the army and navy, and the aborigines, which are useful although not always technically accurate.

M. J. Landa's *The Alien Problem and its Remedy* (London: King, pp. xv, 327) is an attack upon the British Aliens Act of 1905, and a statement of the position for a freer admission of aliens into Great Britain. The author's work is largely a defense of Jewish aliens, but he states fairly well the position of those opposed to the policy of the Aliens Act.

To the Report of the English Royal Commission on the Poor Laws and Relief of Distress has been issued an appendix volume containing a description of foreign and colonial systems of poor relief. (Cd. 5441.) The volume contains the laws and official documents concerning the systems in a number of foreign countries and in the colonies, together with a series of memoranda on poor law administration in these countries. There is also a description of the organization of poor relief in Paris, Berlin, and New York City.

In the *Report of the Librarian of Congress* for 1911 (Washington, pp. 244) is reprinted a memorandum on legislative reference bureaus. In the report is also printed a statement regarding a scheme of coöperation between the Library of Congress and state legislative reference librarians in the compilation of reference lists dealing with topics

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of general interest. Through such coöperation, several brief lists have been prepared and published in the issues of *Special Libraries;* among the subjects covered in this manner are the short ballot, public service rates, and state charities. The Library of Congress has recently issued more extensive lists of references on boycotts and injunctions in labor disputes (pp. 69); employers' liability (2d ed.); and the initiative and referendum.

The July, 1911, number of the *Journal of the Society of Comparative Legislation* contains a number of important articles, among the most valuable of which are one on Albericus Gentilis, by Colemen Phillipson, and the continuation of A. Berriedale Keith's article on the legal interpretation of the constitution of the Commonwealth of Australia.

Two books recently issued and designed for high school use are: *Government in the United States, National, State, and Local,* by James W. Garner (American Book Co., pp. 416); and *The American Republic* by S. E. Forman (New York: The Century Co., pp. xviii, 359).

Professor L. Oppenheim, Whewell Professor of International Law at Cambridge has contributed an interesting monograph entitled The Future of International Law (*Die Zukunft des Völkerrechts,* Leipzig, Engelmann, 1911, pp. 65) to the jubilee volume (*Festschrift*) dedicated to Professor Karl Binding of Leipzig, to celebrate the fiftieth anniversary of that learned jurist's admission to the doctorate. He discusses the nature of international law before and after the Congress of Vienna, and finds that the greatest factor in the development of international law since 1815 is to be found in the ever improving organization of the international community. The principal topics discussed by the author are the organization of the society of states, international legislation (Conferences such as those at the Hague and London) and the international administration of justice. He favors the early establishment of the International Prize Court and the proposed Court of Arbitral Justice, and discusses the objections raised against these two institutions. He considers these courts indispensable to the scientific development of international law.

Die staatsrechtlicke Ausgleich Zwischen Oesterreich und Ungarn, by Ivan Zolger (Leipzig, Duncker und Humblot, pp. xiii, 354), is

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primarily a translation into German of the Hungarian law of 1867. The Magyar text and the German translation are printed in parallel columns. There is a brief chapter tracing the history of the Ausgleich, and a parallel comparison of the Austrian and Hungarian Ausgleich laws.

A pamphlet on *The Practical Results of Workingmen's Insurance in Germany*, by Ferdinand Friedensburg, formerly of the Imperial Insurance Office of Germany, has recently been translated into English (The Workmen's Compensation Service and Information Bureau: New York, pp. 62). The pamphlet contains a severe criticism of workmen's insurance in Germany, and should be of interest to all students of this subject.

The report of the Commissioner of Corporations on *The Steel Industry* (Part I Organization, Investment, Profits and Position of United States Steel Corporation, Washington, pp. xxiv, 422) should be of value to all persons interested in the trust problem. A *Summary* of Part I of the Report was issued at the same time as the report itself (pp. x, 60).

The Federal Commission on Employers' Liability and Workmen's Compensation has held a number of hearings, and these hearings have been printed (Hearings before the Commission, vols. I and II, and parts 2 and 3. Pp. 1114. In part issued as 62d Cong., 1st sess., Senate Doc. No. 90). The hearings contain a number of valuable arguments upon the subject: in Volume II are printed briefs presented to the Commission by Frank B. Kellogg and Frederick N. Judson, Prof. Ernst Freund, Miles M. Dawson, James A. Lowell and others. The commission has recently issued a revised draft of its tentative bill to provide for workmen's compensation in interstate and foreign commerce and in the District of Columbia.

In several recent numbers of this REVIEW reference has been made to reports of state commissioners on employer's liability and workmen's compensation. No reference has, however, been made before to the second, third and fourth reports of the New York Commission. These reports deal respectively with causes and prevention of industrial accidents (pp. 116); unemployment and lack of farm labor (pp. 245); and with the decision of the New York Court of Appeals holding the New York compulsory compensation act invalid (pp. 7).

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In view of the unfavorable view of compulsory workmen's compensation taken by the New York Court of Appeals, especial interest attaches to the opposite view taken by the Supreme Court of Washington. The opinion of the Supreme Court of Washington in the case of *State v. Clausen* has been printed for distribution by the Industrial Insurance Commission of Washington; the brief submitted to the Washington court in support of the law is of much interest (pp. 217, li).

In an earlier number of this REVIEW reference was made to the proposed issuance of a current *Bibliography of Legal Science*. The first number of this bibliography is that for July-August, 1911 (Berlin, Bibliographischer Zenral-Verlag, pp. 235–314). The publication is an American edition of the German Journal of the International Institute of Legal Bibliography. English and American titles are added by the American editors, Edwin M. Borchard, of the Library of Congress, and A. S. Gitterman. The first number of the English edition contains English and American titles for the period from January to May, 1911, and the subsequent monthly issues contain such titles month by month. The work of the American editors seems to be of a high character. This bibliography covers in part the same field as that occupied by the *Index to Legal Periodicals and Law Library Journal*, but has also the titles of books dealing with legal subjects in England and American law, and furthermore gives the titles of books and articles upon Continental European Law. The *Bibliography of Legal Science* will be of great usefulness to students who wish to keep in touch with the literature of public and private law.

A History of Public Permanent Common School Funds in the United States, 1795–1905, by Fletcher Harper Swift (New York: 1911, Henry Holt, Pp. ix, 493). The first two hundred pages of this volume contain a general account of the history and influence of permanent common school funds. This part of the book should be of interest to others than those engaged in educational work, for it presents a statement of the part taken by the federal government in establishing permanent state public school funds, and indicates the influence of permanent funds of this character upon the development of public school systems. The author feels that the existence of permanent state school funds has had an influence in bringing about a state supervision of the public school system. More than half the volume

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is devoted to an account of the permanent school funds in each of the states, and is of little interest to the political scientist.

Volume V (1911) of the *Jahrbuch des oeffentlichen Rechts* (Tübingen: J. C. B. Mohr, pp. x, 660), follows the plan of the preceding volumes. There are nine formal papers, all of high merit; of these the most important ones bearing upon present-day subjects are Dr. Karl Lamp's systematic commentary upon the constitution of Bosnia and Herzegovina, and Prof. Conrad Bornhak's discussion of the jurisdiction of domestic courts over foreign states (a discussion of the Hellfeld case). With respect to important legislation during the year 1910 within the field of public law, there are reports covering the German Empire, Prussia, Bavaria, Baden, Belgium, France, Japan, Russia and Sweden. There is a full account of the struggle for electoral reform in Prussia, and the text of the government bill is printed in full. Professor Reuterskiöld gives a brief but satisfactory account of constitutional changes in Sweden in 1909. Professor Gaston Jèze discusses fully the movement toward proportional representation in France in 1910. The *Jahrbuch* has an established position in the literature of public law, and this volume measures up to the high standard of its predecessors.

A Survey of Constitutional Development in China, by Hawkling L. Yen (Columbia Univ. Studies in Hist. and Public Law, 1911. pp. 136), gives a brief history of constitutional and political theories in China and traces the recent movement for a written constitution. The influence of the doctrines of Confucius in rendering the Chinese a peaceable and submissive people is especially emphasized.

The New Politics, by Frank Buffington Vrooman (New York: Oxford University Press, pp. 300) is, in the main, a somewhat exaggerated attack upon extreme individualism, in which the author seems to consider that all the ills of humanity are due to the persistence of an individualistic philosophy. He apparently fails to realize that one of our present difficulties is due to the embodiment of individualism into our legal system, and to the enforcement of individualistic theories by the courts under the guise of constitutional limitations. The author assumes that individualism and opposition to a strong national government have gone hand in hand, and it is in fact true that interests seeking to escape governmental regulation

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have often sought to justify themselves by state's rights arguments. As a remedy for extreme individualism Mr. Vrooman argues that we should adopt what he calls the "new politics"—a phrase which he nowhere defines but which he implies to be a steering of governmental activities between extreme individualism and socialism, and a recognition of a power in the national government to deal with all problems which are national in scope; this proposed remedy the author puts forward with all the complacency of a first discoverer. There is something of value in the book in its advocacy of a closer correlation of ethics and politics, and in its contention that individualism as a philosophy does not fit existing conditions. But the author appears not to be sufficiently well trained for the writing of a book of generalization, and his book contains much declamatory matter which would be more in place if found in a high school oration.

Legal Doctrine and Social Progress by Frank Parsons (New York: Heubsch, pp. xvi, 219), was published after the author's death and this fact accounts for some minor errors which would undoubtedly have been corrected had the author seen the book through the press. The volume is in large part devoted to an elementary statement of constitutional and legal principles; its main thesis that law is an instrument of society which must change to meet new social conditions, is not made with sufficient clearness. The author properly speaks of law as almost necessarily a conservative force, but thinks that the courts themselves will adjust law to new conditions without the need of legislative action. But this is just what the courts are not doing, and legislation has usually been necessary to supplement judge-made law and to bring it into touch with new industrial and social conditions. The author seems not to have realized the force of a developed body of judge-made law in retarding an adaptation of legal principles to new conditions. But it is not to be denied that there is truth in his statement that: "Progress must always be secured at some cost and that cost consists of two things,—the striving of the radicals under the impulse of ideals to carry new laws or to educate society to the point where it will enact new laws, and the cramping of society by outworn laws before it generates the energy to slough them off and create new forms. It is far better generally to secure progress at the expense of some cramping because not obtained fast enough, than to sacrifice it to the whims and passing passion of a great radical uprooting." But the courts alone have not proven adequate

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instruments even for the conservative adaptation of legal principles to new social needs, and must be aided by legislation. The volume presents nothing that is essentially new either of fact or of point of view, and its value is weakened by the fact that in it the author took occasion to express his own views regarding practically all the problems which now confront society. The book lacks unity and whatever message it has is obscured.

Besides the work of Mr. Norman Bentwich, reviewed in this number, two other works dealing with the Declaration of London, by important writers, have recently made their appearance. The first, by the Right Hon. Arthur Cohen (*The Declaration of London*, London: University of London Press, 1911; 183 pages), is in substance a reprint of lectures delivered at the University of London by this distinguished authority on maritime law. His analysis of the existing international maritime law and his close reasoning as to the changes effected by the declaration, indicate a thorough mastery of the subject. Mr. Cohen approves the ratification of the Declaration. The appendix contains an English translation of the Report of the draft Commission, which is to be accepted as the authorized interpretation of the Declaration. This valuable document was omitted from Mr. Bentwich's book.

The other work, by Dr. Baty (*Britain and Sea-Law*, London: G. Bell and Sons, 1911, 112 pages) attacks the Declaration vigorously. It is distinguished from some of the other criticisms of the Declaration, such as that by Bowles, by the fact that it supports its arguments on legal grounds. The keynote to Baty's objection is that the Declaration seems to him to be "no attempt to gain a security which at present we [Great Britain] have not got, but an unnecessary surrender of established rights." He contends that there is no justification for the destruction of neutral prizes under any circumstances, that foodstuffs should never be considered contraband, and that the penalty for carrying contraband should be confiscation of the goods only. Mr. Bentwich in his work has dealt very ably with all these objections, and it is believed, has shown that they are not tenable. Dr. Baty's book is one of the best reasoned of the works which have opposed the ratification of the Declaration of London.

Report of an Investigation of the Methods of Fiscal Control of State Institutions by H. C. Wright with an introduction by Homer Folks

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(New York: United Charities, 1911, pp. 353) is one result of a recommendation made by Governor Hughes to the New York legislature of 1909 for the establishment of a board of control over the finances of state institutions. The report consists of two parts, the first of which deals with the methods of control in New York while the second is a comparative study of the method adopted in New York, Indiana and Iowa. The investigation was made on the Russell Sage Foundation and under the supervision of the New York State Charities Aid Association. Mr. Wright had access to the records, accounts and other data of various New York institutions and to the records in the offices of the State Auditor and the Board of State Charities in Indiana and in the office of the Board of Control in Iowa. The result of the investigation is largely negative in character. Centralization is found to make for cheapness, but not for economy. No suggestions for legislative enactment are formulated.

Readings in Political Science, selected and edited by Raymond Garfield Gettell (Boston: Ginn & Co., pp. xli, 528), is designed to accompany the same author's *Introduction to Political Science*, although, as Professor Gettell suggests, it may equally well be used in connection with any other manual covering the general field of political science. The volume is made up of brief extracts, averaging about a page in length, taken "from books the majority of which will be found in every well appointed college library." There are, for example, about five pages devoted to the initiative and referendum, and here there are five extracts, one from Lowell, dealing with the origin of the referendum in Switzerland; one from Oberholtzer on the extension of the principles of the initiative and referendum; an extract from Beard's *American Government and Politics* on the initiative and referendum in the United States; an extract from the *Arena* containing arguments for the referendum; and another extract from Beard summarizing the arguments against the initiative and referendum. Here as elsewhere throughout the book the editor's selections have been made with care and have been skillfully classified and arranged, but within the scope of one volume it is impossible to cover the subjects with sufficient thoroughness. Professor Gettell's work on this account suggests the question whether the general field of political science is one which lends itself satisfactorily to treatment in a book of *Readings*.

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Outline of the Organization and Work of the Department of State. Prepared by direction of the Secretary of State. (Washington, Government Printing Office, 1911. 92 pages.) This is an interesting account of the duties and functions of all the more important divisions, bureaus and officials of the Department of State. It was prepared principally to report the activities of the Department since the appropriation for "foreign trade and treaty relations" under the Act of August 5, 1909, and to show how the reorganization of the Department under that Act was effected. Some account is given of the personnel called to fill the new positions created under the reorganized plan. One of the many interesting features of the report is the statement of the diverse kinds of questions which have come before the various officials, particularly the Office of the Solicitor. There is a brief history of the Department and a concluding statement on the operation of the merit system in the appointment of consular officers. The various executive orders which carried this new system into effect are briefly described. The recent difficulties before the House Committee on Expenditures in the State Department probably account for an admission in the report that there is room for improvement in the Bureau of Accounts. The blame for certain cumbersome practices still in use is laid to the survival of archaic methods due to certain statutes which are mandatory upon the Department. The report will probably be followed by a recommendation to Congress for new appropriations for the Department and new legislation to increase its efficiency. The report constitutes a useful supplement to the series of articles by Gaillard Hunt on the history of the Department of State, now appearing in the *American Journal of International Law.*

The recent book by Carl S. Vrooman on "*American Railway Problems* in the Light of European Experience, or Government Regulation *versus* Government Operation of Railways" (Henry Frowde, Oxford University Press, London, 1910, pp. xii, 376) is by no means a profound study, nor indeed does it pretend to be so. It is thoroughly readable, however, and, though it contains errors and defects which the specialist on railway problems will readily detect, it nevertheless will prove of some assistance to many desiring a brief and not too technical account of how Europe has attempted to meet problems with which we are now contending.

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The present activity in our states with respect to the initiative and referendum has produced a corresponding activity in the production of books. A second edition has just appeared of Dr. E. P. Oberholtzer's *Referendum in America*, "together with some chapters on the Initiative and the Recall" (New York: Scribners, pp. xii, 533). Instead of revising his work throughout Dr. Oberholtzer has adopted the plan of adding four supplementary chapters, which cover the years from 1900 (the date of the first edition) to 1911. These supplementary chapters deal with the initiative and referendum in the states, the local referendum, the recall, and the referendum *vs.* the representative system. The chapter on the initiative and referendum in the states is an excellent summary of the development of these institutions since 1898, but equally high praise cannot be given to the other three chapters. In all of his supplementary chapters the author's statements of fact are in the main correct, but three of the four are too much devoted to declamatory utterances against the initiative, referendum and recall. The author does not show the soberness and impartiality which characterized the first edition of his work. The new edition of his book will, however, be of great use to all students of the initiative, referendum and recall. The H. W. Wilson Company of Minneapolis has issued a second and enlarged edition of its *Selected Articles on the Initiative and Referendum*. (Pp. xxxi, 164.) This volume is in the "Debater's Handbook Series" and does not seek to add anything to the discussion of the subject, but it has a useful bibliography. Mr. B. E. Schultz and Prof. Charles A. Beard have published through the Macmillan Company a volume of *Documents on the State Wide Initiative, Referendum and Recall*, which includes all of the constitutional amendments adopted or now pending, and also some of the most important statutes elaborating the constitutional provisions. Prof. W. B. Munro is editing a series of selected papers on *The Initiative, Referendum and Recall* for the National Municipal League Series being published by D. Appleton & Co. In the near future a number of the Annals of the American Academy of Political and Social Science will be devoted to the same subjects.[1]

[1]Several of the book notes in this department of the REVIEW were prepared by Messrs. E. M. Borchardt and J. M. Mathews.

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BOOK REVIEWS.

Die Verfassung des Deutschen Reichs mit Erläuterungen. Von Dr. Ludwig Dambitsch, Amtsrichter. (Berlin: Verlag von Franz Vahlen, 1910. Pp. 696.)

The treatises on German constitutional law, both general and monographic, increase apace. The field makes a strong appeal to the German fondness for academic and theoretical disputation, for fine-spun arguments and subtle distinctions. German constitutional law is now passing through the stage which American constitutional law occupied before the civil war,—a period in which the innumerable details of governmental relations in a federal state with a complex system of balanced powers are threshed out in the form of argumentative discussions. This structural, anatomical study of government must always take precedence; but there comes a time—and in America we have reached it—when it becomes necessary to supplement it by a physiological and a morphological treatment. Constitutional law must include something more than a mere exposition or commentary on the clauses of a written fundamental law. The conventional and dynamic aspects of government are equally important. These phases of the subject, moreover, cannot be left to separate treatises. Unless the study of the strictly legal side of constitutional law be informed and enlivened by constant reference to the actual working of institutions and their transformation under the influence of historical forces it is certain to eventually degenerate into the veriest scholastic emptiness. There is possibly some danger of this at present in Germany. There can be no doubt that a Bryce's *American Commonwealth* for Germany would be a great boon.

The treatise under review, a substantial octavo volume of nearly seven hundred pages, cannot be said to mark a great advance over its predecessors in giving a vital and intimate view of the actual functioning of the German government. It is what its title implies, a commentary on the written constitution of the German Empire. The articles are taken up in order and their meaning and purport expounded; where differences of opinion exist, these are stated and argued. The presentation is clear and exhaustive so far as it goes.

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The author displays on every page a thorough command of the subject. But the narrowness of the method is in some respects perhaps even more obvious than in other standard works. The German judiciary, for example, is not discussed because it rests upon a statutory and not a constitutional basis. On the other hand there are chapters on "The Tariff and Commercial Systems," "The Railway System," "Posts and Telegraphs," "The Marine and Shipping," and "The Consular System" simply because the imperial constitution contains articles upon these subjects. Few written constitutions are so well proportioned or display so clear and discriminating a knowledge of what should, and what should not, be included in a fundamental law as that of the United States. Yet even here the commentary upon the constitution, in which the instrument is taken up article by article and expounded, is somewhat old-fashioned. Germany's constitution is quite the opposite from ours. It reflects the practical state craft and constructive genius of a single great statesman, who was much less concerned about the proper proportions of the instrument, and whether it nicely included all that might be considered fundamental and as nicely excluded all else, as he was about getting in it those things which he deemed essential for the new state. Such a document really lends itself far less to the "commentary" form of treatment than does ours. A very considerable portion of our author's work is perforce not constitutional law but administrative law, yet this portion does not constitute a comprehensive treatment; it is merely fragmentary. There may still be a place for such a work; but it is evident that in pursuing unity and simplicity of form he has sacrificed unity of subject matter.

An American student in reading a work on German constitutional law notices a marked difference from American treatises in the nature of the sources upon which the author relies. The primary and principal agency for the solution of puzzling questions in American constitutional law has always been the Supreme Court, and it is in the decisions and opinions of that tribunal that the chief sources of the subject are to be found. Early text-writers in American constitutional law, and particularly Story, have contributed something, but for the most part the works of publicists have been little more than digests of decisions of courts. In Germany it is altogether different. Constitutional law there, like International law, rests in very large degree upon the works of eminent treatise writers. Such names as Laband, Georg Meyer, Von Rönne, Seydel fill the places which

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with us are occupied by Marshall, Story, Taney, Waite and Brewer. The work under review has constant occasion to refer to the standard authoritative treatises, but its conclusions are also based in no small degree upon a very wide acquaintance with: (1) the debates in the constituent Reichstag; (2) more recent debates in the Reichstag; (3) statutes, ordinances and rules of procedure; (4) the dicta of eminent statesmen, particularly Bismarck and his successors in the chancellorship; (5) the analogous clauses in the Prussian constitution. Only very rarely is the practice in other countries referred to, and almost as seldom is a decision of a court cited.

On the moot questions in German constitutional law the author generally takes a moderate, safe position, which might be expected from the fact that he is not a university professor but a judge. Against the prevalent view among German writers, he maintains a doctrine of divided sovereignty. Sovereignty in the empire, he holds, is divided between Kaiser and Bundesrath. The work, while not reflecting great originality either in method or treatment, is a scholarly one and will doubtless prove of considerable service.

WALTER JAMES SHEPARD.

Traité de Droit Constitutionnel. By LEON DUGUIT, Professor de Droit a L'Université de Bordeaux. (Paris: Fontemoing and Company. Vol. I. Pp. 570; Vol. II, pp. 558. 1911).

This work is a revised and enlarged edition in two volumes of Professor Duguit's well-known "Manuel de Droit Constitutionnel" published in one volume several years ago. The first volume deals with the general theory of the state, its nature, functions, organs and agents, the second volume is devoted to the subjects of liberty and political organization, mainly in the French Republic. The new matter in Volume I consists principally of a chapter on "Public Agents," a discussion, thirty pages in length entitled "Le Corps des Citoyens" and a more extended treatment of the legislative function than is found in the "Manuel." The subject matter of Volume II has been changed by the omission of the chapter on "Law and the State" found in the "Manuel" and by the addition of a chapter, 164 pages in length, dealing with the subject of liberty, its nature, forms and guarantees.

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The general political theories enunciated by Duguit in his "Manuel" and repeated in the "Traité" were reviewed and criticised by Dr. J. M. Mathews in the *Political Science Quarterly* for June, 1909. He defines a state as any human society in which there is political differentiation, *i. e.*, a differentiation between those who govern and those who are governed. Thus an African tribe whose members obey a chief is a state the same as the most highly organized society of Europe. He divides the theories of state origin into two classes: (1) the theocratic doctrines; and (2) the democratic doctrines. He estimates the theocratic doctrines at their true value, in our opinion, when he says they explain nothing. The end of the state he conceives to be the realization of law, *i. e.*, the maintenance of a legal régime. He criticises at length the German juridical theory of the "state person" as unscientific and inadmissible and declares that it rests upon a metaphysical *á priori* conception. The state, he maintains, is not a personality distinct from the individuals who compose it.

From a discussion of the nature of the state he passes to a consideration of the nature and kinds of public law and its relation to private law. Like many writers he ignores the distinction between the state and the nation. The modern "nation," he says, is a historico-social formation—an agglomeration of cities, as the city is an agglomeration of families. Community of political authority, race, language and religious belief does not alone make a nation; there must in addition be community of traditions, needs and aspirations. He rejects the view that territory is an indispensable constituent element in the makeup of a state though modern civilized states are as a matter of fact fixed upon a determinate territory. Like many French writers he also repudiates the theory of the trinity of governmental powers and holds that the judicial power is not separate and distinct from the executive power (Vol. I, p. 359).

For the American student the most valuable part of Duguit's treatise is that which deals with the government of France. Concerning the method of choosing members of the Chamber of Deputies he advocates a return to the *scrutin de liste*, which, he says, is more in harmony with the French theory of representation, namely, that the Deputy should be a representative of the entire country instead of a particular circumscription. Although not without inconveniences they are in fact much fewer, we are told, than those of the *scrutin d'arrondissement*, the method now employed. The latter method facilitates electoral corruption through the temptation which it offers

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to candidates to make promises of favor, places, decorations, railways, etc., to the electors of the *arrondissement*. It also has the effect of causing the deputy to regard himself as a local representative rather than the representative of the general interests. The argument that the method of *scrutin d'arrondissement* enables the electors to become better acquainted with their deputy, is, he says, really an argument against the system for the reason that the deputy is not the *mandataire* of the electors of any *arrondissement*, but of the whole country, and hence there is no reason why they should be personally acquainted with him or he with them. Finally, the present method by which deputies are chosen from petty districts greatly adds to the influence which the government is able to exert in the elections (Vol. I, pp. 375–376).

Another reform strongly advocated by M. Duguit is the introduction of a system of proportional representation for the choosing of deputies. Combatting the powerful arguments of Esmein (*Droit Constitutionnel*, 5th ed., p. 253) against the principle of proportional representation, Duguit declares that it harmonizes admirably with the French conception of representation. It goes without saying, he says, that a parliament in which the different political parties are represented in proportion to their voting strength can express more exactly the will of the nation than can one elected on the principle of the majority system. Nor is the principle of proportional representation inconsistent with the principle of national sovereignty and the representative mandate; on the contrary, it is the only adequate and just method of representation that can be devised. He shows by a table of votes prepared by M. Benoist that in every election since 1881 the number of voters unrepresented has exceeded the number represented. A notable example of the working of the present method is found in the law of 1905 for the separation of Church and State, which was passed by the votes of 341 deputies who represented only 2,647,315 electors out of a total of 10,967,000. A particular advantage which would result from the introduction of a system of proportional representation would be to greatly augment the size of the vote cast in the election of deputies, since the electors belonging to minority parties would have the assurance of being represented. It may be remarked in this connection that in November, 1909, the Chamber passed a resolution in favor of establishing both the *scrutin de liste* and a system of proportional representation, but as yet the views of the Chamber have not been embodied in a law. M. Duguit also advo-

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cates a system of professional or syndical representation by which industrial and professional groups having community of interests shall be represented as such in the Chamber (Vol. I, pp. 377–392).

Concerning the present method of choosing senators M. Duguit expresses the opinion that it has not resulted in the selection of a particularly high type of men; on the contrary, the intellectual ability of the Senate, he thinks, is inferior to that of the Chamber. Regarding the presidency he observes that although it was never intended that the president of the Republic should be merely the agent of parliament but the chief of state, he is nevertheless becoming more and more a simple administrative authority (Vol. I, p. 406).

Volume II of M. Duguit's treatise opens with an extended discussion of the subject of liberty, in its various forms and relations. As stated above this matter is entirely new and is not found in the "Manuel." Among the specific topics treated are: "general notions of liberty," "the declaration of rights," "industrial liberty," "liberty of labor," "liberty of opinion," "liberty of assembly," "liberty of instruction," "liberty of press," "religious liberty," "the separation of Church and State," "the right of petition" and "the right of property." The French declaration of rights of 1789, he holds, was not inspired by the example of America, but the ideas contained therein had their origin in Europe from whence they were transported to America. Although the rights set forth in the declaration of 1789 are not repeated in the present constitutional laws of France, they are, Duguit maintains, still in vigor, and any law enacted by the Chambers contrary thereto would be unconstitutional. They are not simply dogmatic formulas or philosophical theories, but real positive laws binding not only upon the legislature, but upon constituent assemblies as well (Vol. II, p. 13).

Regarding the separation of Church and State in France Duguit expresses the strongest approval. There is no doubt, he declares, that the régime existing prior to the enactment of the separation law was contrary to the principle of religious liberty and freedom of opinion, as well as inconsistent with the equality of the citizens and with the historical evolution of France. There is now, he observes, for the first time a régime of religious liberty under which each citizen may exercise his own right of worship without the interference of the state (Vol. II, pp. 110–124). He defends the law of 1906 by which the compensation of senators and deputies was increased from 9,000 francs to 15,000 francs a year as a means of attracting more distin-

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guished men into the service of the state and he advocates the enactment of legislation forbidding the appointment of senators and deputies to public office, not only during the term for which they were elected, but for a certain period following the expiration of their terms, with a view to removing what has become a serious abuse (Vol. II, p. 279). He also advocates the enactment of more stringent legislation against corrupt practices in elections.

M. Duguit's treatise gives no consideration whatever to the judiciary or to political parties. The reason for this omission is perhaps due to the fact that the French judiciary is not dealt with at all by the constitutional laws of the Republic, while political parties as yet are entirely extra legal organizations. While the omission is defensible upon grounds of logic and scientific arrangement, one cannot but regret that a work which treats with so much detail the executive and legislative branches of the government should wholly ignore the judiciary and, we may add, the part played by the political parties. But barring these faults, if such they be, M. Duguit's work is undoubtedly the most comprehensive general treatise on the French state that has yet been written, though Esmein's *Droit Constitutionnel* perhaps surpasses it in brilliancy of treatment and originality. Its value to students is greatly increased by the comparative method of treatment and by the abundance of bibliographical material cited. On nearly every page one finds citations to the latest and best literature in French, German, English and Italian to which the reader may go for more detailed information. Indeed, the familiarity of the author with so extensive a mass of literature compels admiration as does also the abundant evidence of thorough and painstaking effort throughout the entire work.

J. W. GARNER.

The Origin and Growth of the American Constitution. By HANNIS TAYLOR. (Boston and New York: Houghton, Mifflin Company, 1911. Pp. xlii, 676.)

Mr. Taylor has published much on public law. To his previous achievements he has now added a volume in which, according to the claims of the title page, "the documentary evidence as to the making of the entirely new plan of federal government embodied in the exist-

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ing Constitution of the United States is, for the first time, set forth as a complete and consistent whole."

In the first chapter the author takes all previous commentators, from De Tocqueville to Bryce (1888), to task for not having consulted the documents, where they would have discovered that the Constitution was not handed down from Heaven, nor drawn up by inspired men, nor yet evolved by the convention after that body assembled, but that it was outlined on a "wholly novel theory" by Pelatiah Webster in 1783. The second chapter deals with "The Great Discovery of Modern Political Science," which is a federal legislature of two houses with power to tax and provide for the enforcement of its laws. Incidentally another great discovery is disclosed, that the author is the first to discover that Pelatiah Webster was the first man ever to conceive this brilliant idea. After tracing the development of the typical American state from the primitive political institutions of the German forest to the American constitutions of 1776, the history of federalism from the Achaian league to the Seven United Provinces of the Netherlands, and of American confederations from 1643 to 1777, one chapter to each, he returns to Webster's "Great Invention," which turns out to be the present Constitution.

When the convention of 1787 is taken up we are informed at the outset that the Virginia plan, the Pinckney resolutions and the Hamilton draft were drawn from one common source, the pamphlet of Pelatiah Webster. The work of the convention is then treated in some detail; also the adoption of the Constitution. The twelve amendments are given an historical setting, African slavery and its consequences are traced from 1619 to 1900, following which comes an account of constitutional growth from 1804 to 1865 through legislation, resolution and judicial decisions. The chapter on the Civil War amendments and their interpretation is followed by one on our colonial system and the Monroe Doctrine. The more recent development of the Constitution is then taken up in connection with interstate commerce, trusts and monopolies, and a final chapter contains some reflections on the outcome of our growth. A lengthy appendix gives many important documents beginning with the Confederation of 1643 and ending with the Constitution and including the so-called Mecklenburg Declaration, Pelatiah Webster's contributions and the various plans submitted to the convention.

From the amount of attention given to Pelatiah Webster it is evident that the author thinks that his discoveries in reference to this gentle-

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man are one of the chief justifications for the publication of the book. He tells us that the first call for a convention was issued in May, 1781, by Pelatiah Webster, who thus early pointed out the defects of the Confederation. February 16, 1783, Webster returns to the attack in a "Dissertation" which, says Mr. Taylor, contains the first suggestion of a federal government with power to tax. He also says that it contains the entire plan of the Constitution, worked out four years before the convention ever met. It was published at the very doors of Congress and all the world knew it by 1787. Madison was in Philadelphia on the day of its publication and was acquainted with the author; Hamilton also was there on that day, serving in Congress from November, 1782, to October, 1783, hence he must have been familiar with the pamphlet; Charles Pinckney served in Congress from 1784 to 1789 and must have known it. In view of these facts "only the blind and infatuated will contend that these vigilant and ambitious young statesmen, intent upon improving conditions then crying out for a remedy, did not read and master the contents of the great document, the first to propose the construction of a new federal system, published 'at the seat of government,' under their very eyes, by Pelatiah Webster on February 16, 1783."

"In response to his [Webster's] first bugle call," continues Mr. Taylor, "made as Madison tells us as early as 1781, the 'Continental Convention,' he was first to propose, assembled in May, 1787, to make a new constitution; in response to his second call, made February 16, 1783, three men of genius went to that convention bearing with them as a basis for its action, in rigidly constructed formulas, his invention, . . . In the full sense of the term the three draftsmen were men of genius, who did all that remained for them to do. The great invention having been made in advance, they could not make it over again; it only remained for them to restate it and adapt it for the practical end for which it was designed." Further, a certain sequence of events supports this view. The first call for a convention was made by Webster in 1781. In 1782 the Legislature of New York adopted resolutions, "which Hamilton probably drafted," inviting Congress to recommend a convention. April 1, 1783, six weeks after the publication of Webster's second call, Hamilton for the first time mentioned the matter in Congress and April 28 Congress appointed a committee on the subject (161–2).

Reasoning on the basis of probabilities the author appears to have made out a pretty good case for his client, but there are a few flaws

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in the reasoning which one may plead in extenuation for not being found among the "sane and serious" persons who no longer doubt. The first is that if Pelatiah Webster ever called for a convention previous to 1781 he did not anticipate Hamilton as that gentleman exposed the defects of the Confederation and suggested a convention in a letter to James Duane dated September 3, 1780;[1] he also prepared another paper on the defects of the Confederation and ended it with a call for a convention July 1, 1783,[2] facts which Mr. Taylor has ignored.

Another flaw is the fact that Webster was not the first to suggest that the federal government be given the right to use force. March 12, 1781, Madison presented a report recommending to the Legislatures to confer this power on the United States.[3]

An examination of Webster's pamphlet shows that it does contain a few suggestions embodied in the Constitution, but several of these were commonplaces in political philosophy and, to a great extent, in practice in the state constitutions, such as the separation of the powers, legislatures of two chambers, and no grant of money without an appropriation. Contrast with these some of his fanciful suggestions which were not used: That the delegates to the national Legislature should be elected and recalled by the states in whatever manner and as often as they saw fit; that the great ministers of state should form a council to which every bill should be presented after its second reading for criticism and that their criticisms and suggestions should be entered on the journals and sent to the other house along with the bill; that there should be a chamber of commerce, made up of representatives of the merchants, to advise Congress (for which his name should be revered by the "interests"); that, in case of invasion, the two houses should choose a dictator; that, in order to enforce obedience, Congress should summon the disobedient before it and punish them. To this last he did offer an alternative proposition, that Congress should send into any state a force sufficient to suppress opposition to its acts and orders, but, as we have seen, he was anticipated in this by Madison.

It is true that Hamilton's paper of 1783 was issued subsequent to the publication of Webster's, but, since he had anticipated him in calling for the convention and had drawn up the New York resolution demanding it before the publication of Webster's paper, and since

[1] Hamilton. Political and Official Writings, I, 151 ff.
[2] Works, ii, 276 ff.
[3] Bancroft, History of the Formation of the Constitution, ii, 23.

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Madison had anticipated Webster in one of the most essential elements of the new Constitution, is it not just as probable that these brilliant young statesmen, already full of experience in public affairs, should be able to work out a "new system" as it is that a comparatively unknown man, with little, if any, such experience, should do it? Indeed, following probabilities, it seems almost ridiculous to assume that Webster's paper, which, although it contained several good suggestions, offered so many absurd propositions, should have been used as the basis of our present Constitution. If it was so used, it is very strange that we have no mention of it anywhere. Several times Mr. Taylor reiterates Langlois's saying, "No documents, no history." He has failed to bring forward a single document showing beyond mere probability any connection between Webster's paper and the Constitution.

In his study of the convention Mr. Taylor can hardly be said to have added much, if anything, to our stock of information on that subject. He confesses that the Pinckney draft furnished in 1818 is not genuine, yet refers to it for Pinckney's ideas (33, 415). After having chastised the older historians for following one rut he falls into another and speaks of the three-fifths rule and direct taxation as part of a compromise on representation (198–9) and of the fugitive slave clause as a compromise (234). When we find him referring to the smaller states as "justly" insisting on equal representation in at least one house of the Legislature (186), we must believe that the full significance of the compromise on representation has escaped him. On the other hand, the method of electing the executive, the provision for the admission of new states, and the assumption of the debt of the Confederation are not spoken of as compromises at all, though at least the first two were important ones. And one is surprised to find no mention whatever of the clause relating to navigation acts, which formed a vital part of the compromise on the importation of slaves.

It is pleasing to turn to the more valuable part of the book, that relating to the growth of the Constitution since 1789. The crises, the debates and the great judicial decisions down to the Civil War are discussed in an illuminating way, yet, even here one must beg pardon for refusing to call in an alienist simply because he continues to "doubt that the conclusions reached by the Supreme Court in the Dred Scott case were in perfect accord with the positive law as defined in the compromises of the Constitution" (293). Especially valuable is Chapter XIII, which treats of the growth of the Constitution through judicial decision. Herein the author shows how the excessive individualism of

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the closing days of the eighteenth century has been, or rather is being, transformed into a nobler collectivism through the court's interpretation of liberty and property. For this part of the book the author is due the gratitude of students and publicists. They will also be glad to have the annotated text of the Constitution in the appendix. However, in spite of a few additions of very recent cases, it is doubtful if this is any improvement over the text published in the House Manual.[4] Indeed, the latter has one very distinct superiority in that, by means of reference numbers, it indicates to what particular part of any section the case cited refers. Unless Mr. Taylor is the author of this text also, it certainly is strange that he should have copied verbatim some of the historical footnotes without quotation marks or acknowledgment of any kind.

DAVID Y. THOMAS.

The First Decade of the Australian Commonwealth: A Chronicle of Contemporary Politics, 1901–1910. By HENRY GILES TURNER. (Melbourne: Mason, Firth & M'Cutcheon, 1911. Pp. 320.)

Mr. Turner, who is already known as the author of the standard history of the colony of Victoria, has rendered a notable service to those who are interested in Australian politics by issuing this timely volume. It is distinctly a study in politics. The parties and their platforms, the legislation of the various sessions, the frequent changes in ministries, are all described. When the Commonwealth was inaugurated, in 1901, much was expected from it. That so little was accomplished in the first decade was due to the unstable equilibrium of the parties. Eight ministries in ten years indicate the lack of continuity in policies. The first session of the present labor administration can boast of an unusual number of striking enactments, such as the Australian Notes, the Federal Land Tax, the two sweeping proposed amendments to the Constitution, and the Northern Territory acts. In dealing with such recent and much-disputed topics the point of view of the author must be borne in mind. Mr. Turner was for many years the president of one of the great banks of Victoria although at the same time interested in historical and literary work. Naturally

[4] 60th Congress, 2d session.

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he is hardly in sympathy with the present administration of the Commonwealth, yet his treatment is unusually fair and temperate, and in this respect differs considerably from much of the special pleading that has been written about Australia. His work will be appreciated by all those who have tried to follow the devious course of Australian politics.

PAYSON J. TREAT.

Principes de Droit Public. By MAURICE HAURIOU. (Paris: Larose and Tenin, 1911. Pp. xi, 734.)

This is a companion volume to Professor Hauriou's treatise on Administrative Law, the seventh edition of which is reviewed elsewhere in this number of the REVIEW. It was written, we are told, to meet the demand for a text-book, the need of which was created by a recent decree of the French government requiring an examination in public law, including the theory of the state, for the doctorate. There were already a number of excellent French manuals on the market, notably those of Esmein and Duguit on *Droit Constitutionnel* but Hauriou's work is entirely different in character and scope from either of these. Their treatises are much more practical and concrete in their methods of treatment and aside from several preliminary chapters on the principles of public law, they deal mainly with the constitutional law of France. Hauriou's work, on the contrary, is distinctly theoretical. It is largely a treatise on the state with special reference to its social and philosophical aspects. It treats the state from the subjective point of view and hardly at all as an objective institution. It begins with a consideration of the subject of public law from the point of view of order and equilibrium. Ancient writers, we are told, emphasized the first of these viewpoints. They considered that there was a preëstablished order of things to which the law must be made to conform. Modern writers, on the other hand, emphasize juridical relations. Modern law is essentially a system of equilibria, social, juridical, economic, political, etc. Thus there is an equilibrium between the national and foreign forces; the central administration is counterbalanced by the local administration; there is an equilibrium between the executive and the legislative powers, between the Senate and the Chamber of Deputies, between economic and political forces, between the civil power and the military power, between public life and private

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life, etc. The constitution of the state is merely the order introduced into the state; the separation of powers is the equilibrium. Politics is thus the science and the art of the equilibria of power. The state itself is nothing more than a régime in which there is an equilibrium between powers. It is the judicial personification of the nation viewed as an established "equilibriated" régime (p. 72). Defined more precisely it is, "une société politique qui a su rèaliser dans son sein la vie civile, grâce à un triple sytème d'équilibres; la superposition des institutions politiques, l'incorporation d'un marché économique à une communauté politique, la séparation des divers pouvoirs." It is a social superstructure which under normal conditions is produced by concentration or synthesis of principles or anterior political institutions whose populations belong to the same nation. It is an historical product of a certain stage of civilization characterized by a development of exchange and of economic relations.

The fundamental equilibria upon which the state rests are: (1) equilibria of superposition; (2) politico-economic equilibria; (3) social equilibria; (4) there are a number of equilibria, political, constitutional and administrative which, all combined, serve to assure and maintain the predominance of the civil régime such as: the separation of the military and civil power, the religious and the civil power, the separation of constitutional powers, etc. (p. 228).

These various classes of equilibria are considered in detail; indeed, the book is mainly a discussion of the elements of equilibrium and separation in the state life. One chapter is devoted to a philosophical discussion of the "institution." Then follows a chapter on "juridical commerce" in which the author dwells upon the distinction between political and economic society including the economic origin and foundations of law; one on "the contract" in which he treats of the historical origin and place of contract in primitive law, of "political contracts" and of the social contract as a theory of state origin; one on the "civil régime" in which he considers a "series of accessory equilibria" for the protection of civil rights, such as the separation of the military and civil power, the separation of government and administration, the separation of the individual from the state, etc.; one on "separations" in which the idea is developed that the state is a régime of separations, that is, an organization in which there is a division and balancing one against the other of various organs, powers and activities; one on "centralization and law" in which the principles of centralization and decentralization are discussed as counterbalancing

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forces; and one on "juridical personality" in which he discusses the state as the "juridical personification of a nation viewed as an established and equilibriated régime."

As a whole, Hauriou's work is characterized by originality of thought and an intimate knowledge of the history of institutions, but the feeling which one has after reading it is that many of his distinctions are fanciful, and that its value is not in proportion to the thought and effort which the author must have expended in the production of so ponderous a volume. As stated above, it is hardly a treatise on public law at all, but rather a sociological discussion of the origin and nature of law and of political institutions.

J. W. GARNER.

Meili and Mamelok. Das internationale Privat und Zivilprozessrecht auf Grund der Haager Konventionen. (Zurich: Orell Füssli, 111. 427 pages.)

Professor Meili has rounded out his previous excellent studies on private international law, both substantive and adjective (*Das internationale Zivil u. Handelsrecht,* 2 v. Zurich, Füssli, 1902, translated into English by A. K. Kuhn, and *Das internationale Zivilprozessrecht,* 3 parts in 1 v. Zurich, Füssli, 1904–6), by the present work on the effect of the Hague Conventions on private international law. In preparing the book he has had the collaboration of Dr. Mamelok, his former student and now an attorney in Zurich. The work carefully examines and analyzes the four Hague Conventions of 1893, 1894, 1900 and 1904, so far as they relate to marriage, divorce, guardianship and civil procedure. The work is not a commentary, but a systematic presentation of each of the above subjects as a whole. The authors first discuss briefly the general principles of private international law, and the provisions common to all the Conventions. Then follows a discussion of the separate conventions on marriage, divorce, guardianship and civil procedure, each subject being treated after a more or less uniform method. In each, the authors first discuss the application of the Convention as to its territorial jurisdiction, its effect on property and on persons. They then point out the divergencies in the law before the ratification of the Convention, and they conclude with a close critical and analytical study of the changes affected by the

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Convention. The difficult subject matter is made as clear as possible by frequent subdivision and concise statement of principles at the head of the main sections. Bibliographic references are numerous, as in all of Meili's works. The notes on comparative law are valuable, the provisions of Swiss law being generally emphasized. An appendix contains the text in German and French of the four Conventions discussed. The careful subdivision of the subject matter compensates for the lack of a more complete index. The style is simple and easily readable. The book is a distinct contribution to the literature of private international law.

E. M. B.

British Rights at Sea, under the Declaration of London. By E. F. BRAY. (London: P. S. King & Son, 1911. Pp. 99.)

In this brief treatise the author attempts to straighten out the conflicting opinions which the Declaration of London called forth throughout England. The most contradictory statements were made by prominent publicists as to what the effect of the Declaration would be, one writer seeing in the Declaration nothing but what was favorable to neutrals, another finding it a pronunciamento against them. Mr. Bray has succeeded in presenting, in a small space, a very fair estimate of the situation in which England was placed before the Declaration, and the probable situation in which she will be, if the Declaration is ratified. The advantages to be gained by the Declaration are placed side by side with the rights which are abandoned, and a simple and logical conclusion is drawn from the comparison. While the author argues in favor of the Declaration, he gives the reader the advantage of knowing what has been said against it, by brief quotations in the appendix. On the whole this brief treatise is, in point of clearness, precision, and compactness, a model of what should be looked for in a popular manual of information.

The Declaration of London. By NORMAN BENTWICH. (London: E. Wilson and Sweet & Maxwell, 1911. Pp. 179.)

The Declaration of London is a document of the greatest importance in the development of the law of neutrality. It was framed by the

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London Naval Conference of 1908 in order to furnish a code of law which the International Prize Court, established at the Second Hague Conference, might apply. The Declaration establishes definite rules to take the place of the uncertain and varying interpretations of international law hitherto evolved by national Prize Courts. The rules drafted cover the subjects of blockade, contraband, the doctrine of continuous voyage, in respect both to blockade and contraband, the legality of the destruction of neutral vessels before their condemnation in a Prize Court, the rules as to transfer of merchant vessels from a belligerent to a neutral flag during or in contemplation of hostilities, and the questions of enemy character, convoy and resistance to search.

In Great Britain, which country is largely affected by the Declaration, the document was at first received with favor. Since then, like the Canadian Reciprocity Agreement, it has been the subject of most violent nationalistic attacks, to some extent founded less on its real effect, than on a variety of contingencies and possibilities conceived in the minds of alarmists, and it has recently failed of ratification in the House of Lords. The opposition to it came from several quarters. Mr. Bentwich undertakes to defend the Declaration from these criticisms, and upholds the view shared by most international lawyers, that the Declaration is an advantage to Great Britain and to every other naval Power. His able analysis of the Declaration, and his familiarity with international law and the present British practice make his work one of the most important contributions to the literature of the Declaration of London.

That part of the opposition which is represented by such men as Gibson Bowles (*Sea-law and Sea-power*) and those who fear that the provisions of the Declaration, particularly those concerning conditional contraband, would produce starvation in England in the event of a war, are characterized by Mr. Bentwich as suffering "from a kind of national neurasthenia." Bowles and his followers attack the Declaration as an instrument devised against belligerents by neutrals. They claim that it deprives Great Britain of many of the rights it has exercised in time of war, and affects vitally Great Britain's offensive and defensive powers in a possible naval struggle. Chambers of Commerce, and a few distinguished lawyers, have also opposed ratification. They attack the Declaration, because, in their opinion, certain of its provisions menace the British food supply in time of war, and other provisions involve novel risks to neutral commerce. Their

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claim is that the Declaration derogates from the acknowledged rights of neutrals. Mr. Bentwich deals ably with the arguments for and against the Declaration and answers both critics by showing convincingly that the Declaration can not have both the effect of diminishing belligerent rights and adding to the liabilities of neutrals.

There are two main questions around which the controversy has chiefly raged, first, contraband, and secondly, the destruction of neutral prizes. The objection as to contraband is based on Article 34, which lays down the conditions in which a belligerent may presume that a cargo of conditional contraband is destined for the enemy forces or authorities, and is, therefore, liable to capture. The opponents base their argument on the claim that food being declared conditional contraband could be kept out of England by any belligerent, for any British port might be considered a base for an armed force. Moreover, the opponents of the Declaration refuse to acknowledge the applicability of Professor Renault's Official Report, which accompanied the Declaration, and which shows that the doctrine of continuous voyage is to apply only to absolute and not to conditional contraband. Sir Edward Grey had made it clear that Great Britain would not ratify, unless Renault's Report were accepted as an authoritative interpretation of the document. By continental law this would always be so; by Anglo-American law, ordinarily, such a report could not be read into the Declaration unless especially incorporated by reference. The question in last analysis is reduced to Great Britain's naval ability to command the seas, otherwise she may starve in time of war, Declaration or no Declaration.

The destruction of neutral prizes is objected to on the ground that if the captor cannot bring in a neutral prize for adjudication, it is his duty to release her. With the larger number of ports possessed by Great Britain as compared with the other countries, she could, as a belligerent, bring in prizes more readily than other belligerent countries, and being most largely interested in the carrying trade, the rule adopted would work harshly against Great Britain as a neutral. Lord Stowell himself, however, supported the doctrine that, under necessity, the sinking of neutral prizes is permissible, and the continental practice has always accorded with this view. The Declaration marks an advance over existing law in that it offers compensation when the capture is not upheld by the prize court, nor the necessity for the destruction proved by the belligerent. The destruction of neutral prizes, as was shown in the Russo-Japanese War, can not be effectually

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prevented now. The Declaration in this respect evidences many improvements. A compromise is better than no rule at all.

In sum total, the Declaration establishes a certain and uniform law of blockade and contraband, in place of the existing unstable and varying rules of different nations, which have heretofore caused constant friction. Again, it lays down clear and uniform rules on all other unsettled questions in the relations of belligerents and neutrals at sea, save on two important points: (a) Whether belligerents may convert certain of their merchant vessels into war ships on the high seas; (b) whether nationality or domicile determines the enemy or neutral character of sea-borne commerce. On these points the Declaration leaves the position of Great Britain unaffected. On the whole, as a neutral, Great Britain is better off under the Declaration, and as a belligerent her position is unaffected.

Part one (forty pages) of Mr. Bentwich's book is devoted to a general discussion of the provisions of the Declaration, of its effect on present British practice and international law, and of the criticisms that have been directed against it. On the whole, it is the clearest statement of the true legal effect of the Declaration that has appeared in the controversy. Part two is devoted to a commentary on the text of the Declaration, article by article. The author's clear discussion of the various articles in their relation to existing British practice and general international law on the subject furnishes an accurate conception of the import, scope and effect of each article. In a few cases, the author has transposed the numerical order of the articles. The method follows that of the usual continental legal commentary. An appendix contains the official text of the Declaration in English and French, the Hague Conventions relative to the establishment of an International Prize Court, the Declaration of Paris of 1856, and the recently rejected Naval Prize Bill, which was intended to enable an appeal to be carried from the British prize courts (the Admiralty Division of the High Court, with appellate jurisdiction in the Judicial Committee of the Privy Council) to the International Prize Court proposed by the Hague Convention. It is regrettable that the author has not included M. Renault's Official Report, which was based on the provisional Reports that had been approved by the Naval Conference, and purports to give an exact and non-controversial commentary on the Declaration.

EDWIN M. BORCHARD.

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The Binding Force of International Law. By A. PEARCE HIGGINS. (Cambridge: University Press, 1910.)

Professor Higgins, the well-known English publicist, has published his inaugural lecture at the London School of Economics in the form of this booklet of some fifty pages. The discussion extends beyond the scope of the title. The author discusses the origin and growth of international law, and deals with the objections to its acceptance as law. He approves of Hall's definition of international law as a body of "rules of conduct, which modern civilized states regard as being binding on them in their relations with one another with a force comparable in nature and degree to that binding the conscientious person to obey the laws of his country." He concludes that these rules of conduct are generally observed by states. Reasons for the observance of international law are several: First, "because states do not think it worth while to break its rules, as any inconvenience they may suffer by the observance is more than counterbalanced by the advantages which flow from the maintenance of a condition of peace"; secondly, it is observed, "because of the fear of encountering the condemnation of the public opinion of the world"; thirdly, it is observed, "because the conscience of the world finds in its rules an increasing approximation to the rule of right," to the generally accepted standards of justice and humanity. His discussion of the relation between international law and peace is interesting. He concludes that nations are not yet prepared to bring all possible causes of differences within the sphere of the peaceful application of the rules of law. He points out the various agencies such as mediation, arbitration, and commissions of inquiry, which open the way for the peaceful settlement of international differences. The ultimate solution of both international law and peace he finds in the public opinion of the world, which, when properly educated, he considers the ultimate factor both in improving and in enforcing the law of nations.

EDWIN M. BORCHARD.

Individualism: Four Lectures on the Significance of Consciousness for Social Relations. By WARREN FITE. (New York: Longmans, Green & Co., 1911. Pp. xix, 301.)

Perhaps those who approve least of Professor Fite's doctrines will find most reason to be grateful to him for expressing them. Lectures

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on ethics and political philosophy are wont periodically to confute egotism in morals and the theories of natural rights and the social contract in politics; but the classic representatives of those opinions, after much cudgelling, have come to present an unimpressively archaic and battered appearance. Professsor Fite now steps forward as (by his own account of himself) a contemporary spokesman for all three of these heresies; and he is a vigorous and aggressive one. He does not shrink from saying that social morality is to be constructed out of "deliberate selfishness" (p. 179), though he naturally makes the most of the word "deliberate." And in the final lecture his "special purpose is to rehabilitate the doctrine of natural rights and the coördinate doctrine of the social contract." In rejuvenating these theories he confers a boon at least upon professors of philosophy, by lending a new air of contemporaneity to their discussions of those theories. That he also makes it necessary to give to those discussions hereafter a radically new form cannot, I think, be said. Fresh and vigorous and admirably sequential though his reasonings are, they disregard rather than controvert most of the familiar distinctions upon which rests the argument for the other side. And it is not quite clear that the author himself keeps consistently to his announced position.

Indeed, that he should consistently play the advocate for *both* ethical egotism and the doctrine of natural rights (in any approach to its historic sense) is surely too much to expect. Though both bear the ambiguous name of "individualism," the two doctrines are essentially incongruous in their answer to the main question: What is the ground of *A*'s claim to consideration at the hands of *B*? Egotism finds the ground in the fact that *B* by disregarding *A* will lose some concrete future good for himself; the natural rights theory, on the contrary, affirms that there is an objective order of values wherein *A*'s claim is based, irrespective of any subjective advantage which *B* may gain by recognizing it. Professor Fite's lecture on "Individual Rights and the Social Problem" seems to me to waver between these two views, neither being definitely expressed, and to incline finally to an obscure compromise between them, in which the egoistic doctrine gets the lion's share. The compromise, if I understand it, runs about thus: *A* "from his own point of view" has rights; if he knows that he has and purposes to assert them, his doing so is an objective fact of which *B* should take cognizance; and *B* has egoistic motives for recognizing the claim which *A* asserts, since "nothing

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is clearer than that, barring sudden death or other accident, the man who really knows what he wants is bound to get it, . . . recognition or no recognition." (In the lives of most of us there have been moments when this last has not been so clear as could have been wished.) I do not see that the author avoids theoretically implying that a right exists because it is asserted, and imposes obligations upon others only because people who think they have rights are dangerous people to disregard. And in dealing with practical contemporary issues Professor Fite plainly intimates that when *A* does not know and actively affirm his "rights," *B* need not worry too much over his obligation to observe them. One wonders whether Mr. Fite holds that a child has a (moral) right to an education only if he clamors to be sent to school.

To the ethics of enlightened (of course a highly enlightened) self-interest the book adheres somewhat more consistently; yet, through the neglect of fundamental and hackneyed distinctions, that doctrine is far from unequivocally expressed. "To the conscious individual," we are told, "no motive is conceivable save that which in last analysis offers a value for himself." As ethical theorists have a hundred times pointed out, this proposition is big with ambiguities; it is, according to the sense in which it is taken, either a harmless truism, from which no ethical consequences follow, or a psychological paradox from which (in the opinion of many) eminently unsound ethical consequences follow. Is the "value for self" of the end chosen a value for the judging self of the moment of reflective choice, as that self looks out upon the possible results of its action and decides what ends it *now* most cares about realizing; or is that value some satisfaction to accrue to the individual in the future? Between these two senses Professor Fite nowhere explicitly distinguishes. Yet it seemingly is the latter that for the most part he means. Against the common criticism upon this, the true egoistic doctrine, he appears to me to offer no serious argument. But he gains a false appearance of pertinent argument by attacking the notion that self-sacrifice as such is morally commendable. Modern dissenters from egoism are, of course, seldom chargeable with such sentimentalism; what they assert is merely the obligatoriness of self-subordination when the individual interest and the larger interest conflict. *If* such conflict arises, what would, in the author's opinion, be the rational choice? Instead of directly answering this decisive hypothetical question, he repeatedly evades it by the lame device of denying that there need be any such

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conflict. "There is no inherent contradiction between social welfare and individual freedom, and, therefore, the duty of self-sacrifice for the common good is not merely paradoxical, but unintelligent (*sic*) . . . As rational beings we are bound to assume that every social problem can be completely solved by careful analysis and adjustment of individual aims." This is partly a play upon words; what it *should* mean, for the argument, is that the realization of collective good never involves any individual sacrifice; and to assert that is fantastically to contradict human experience. And, even if it were true in fact, the assertion would still be an evasion of the central theoretical issue.

Meanwhile the curious fact is that the special conception of "consciousness" which affords the philosophical starting-point of the book points plainly to a certain form of the ethics of natural rights, in contrast with ethical egoism—to a doctrine which is individualistic in the sense that it asserts the "objective" value of each individual's self-fulfilment and consequently regards the rights thus arising as logically antecedent to society and as underived from social institutions. Professor Fite seems to me to have been led away from his own proper doctrine through the ambiguities of the word "individualism."

ARTHUR O. LOVEJOY.

The New Nationalism. By THEODORE ROOSEVELT. (New York: The Outlook Co., 1911. Pp. 275.)

This is principally a collection of speeches made by Mr. Roosevelt during a tour through the West in the summer of 1910. In addition two editorials from the *Outlook*, one by the author on "Criticism of the Courts" and the other by Lyman Abbott, are reprinted. Perhaps the most important speeches in the collection are the Osawatomie Address on "The New Nationalism" and the speech on "The Nation and the States" delivered before the Colorado Legislature. The substance of these speeches has appeared in the public prints and they have been freely discussed. They are taken up largely with fierce denunciation of "wrong," and strenuous advocacy of "right." Well-known views are also expressed regarding the necessity of the exercise of national power in order to secure and maintain popular rights when

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state power is inadequate. These views are important as undoubtedly voicing the opinions of a great many persons, but, as stated, are lacking in definiteness and scientific precision.

J. M. M.

The Solution of the Child Labor Problem. By SCOTT NEARING. (New York: Moffat, Yard & Company, 1911. Pp. viii, 145.)

This compact little volume "The Solution of the Child Labor Problem" makes a stirring contribution toward that solution. The author's sparkling style, and the constructive substance of the book, distinguishes it favorably from the dreary platitudes of sympathizers without knowledge and of experts without literary style from whom the cause of the child toilers has suffered severely in recent years.

Some proposals of the author are already in force elsewhere, as the longer education of boys in the continuation schools of Munich and other German cities. Others are the subject matter of active agitation, under the leadership of Mrs. Sidney Webb, by the advocates of the minority report of the English Poor Law Commission published in 1909. Still others are in force in some countries and the object of legislative consideration in our own. Thus minimum wage boards have existed in Australasia since 1893, and in England since 1910. Bills dealing with minimum wage boards have been considered by the legislatures of Minnesota, Wisconsin and Massachusetts. Their advocates have been in each case chiefly persons interested also in child labor reform.

A friendly critic may, perhaps be forgiven for observing a slightly Milesian tendency to hit the wrong head when Dr. Nearing accuses the child labor reformers of the sins of omission and commission of the educators. Nor has the writer, in a quarter century of effort for child labor reform, either experienced or beheld the ecstacies referred to in Dr. Nearing's unproved and unprovable assertion that "While the reformer goes into ecstasies over the statistics of decreasing child labor, the victims of the decrease either run the streets, go hungry or suffer from both these evils." In the few cases in which there are trustworthy statistics of decreasing child labor, they are accompanied by an increase in school attendance in the grades stipulated by the combined compulsory school law and child labor law. This has been

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true for some years in Chicago, and in New York. There are even some encouraging symptoms in recent months in Dr. Nearing's own state of Pennsylvania.

FLORENCE KELLEY.

The History of Parliamentary Taxation in England. By SHEPARD ASHMAN MORGAN, M. A. Williams College Prize Essay, No. 2. (New York: Moffat, Park & Co., 1911. Pp. xvii, 317.)

In his essay on Parliamentary taxation in England Mr. Morgan has not had the opportunity of showing what he can do in the way of original historical research. The essay, which runs to barely 60,000 words, covers in the briefest possible manner the history of the laying of taxes by king, or by Parliament from the earliest Saxon times to the reign of Charles II. It is obvious that centuries must be covered in the most cursory way, and the chief merit of the work can only be exhibited in Mr. Morgan's selection of the most vital facts. From this point of view the work is well done. Mr. Morgan traces the origin of representation in the House of Commons to the need of Edward I for money and to his great discovery that a tax levied by consent and with the approval of those who had to pay it, was more profitable than a tax levied by the absolute power of the sovereign. He also shows how this germ of power of the Commons was preserved, and how it grew and extended; until the attempt of the Stuarts to take it from the House of Commons resulted in the overthrow of Charles I, and the reëstablishment of the principle, after the interval of the Restoration and the reigns of Charles II and James II, on a statutory basis in the Bill of Rights of 1689. Mr. Morgan has been highly successful in bringing out the salient fact of the history. He has wisely presented these facts with some fulness, in spite of the small space at his command and the vast period he had to cover; and he has thereby produced a readable little treatise which may well serve as an introduction to the study either of Parliamentary institutions or of taxation in its fuller meaning.

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The Life of George Joachim Goschen. 1831–1907. By THE HON. ARTHUR D. ELLIOT. (London and New York: Longmans, Green and Company, 1911. Two volumes: Pp. xiii, 321; ix, 300.)

From some aspects Goschen was one of the most striking personalities in the Parliamentary history of the nineteenth century. He was the son of a German who had settled in England in 1814, and made for himself a strong position in the banking world of the City of London—a position which accounts for the ease with which Goschen entered the house of Commons in 1863 as one of the four members then returned by the city. In the preceding sixty years there was no man of the rank which Goschen ultimately achieved who was quite of his type; and he was certainly in a class by himself in the House of Commons—with only Roebuck and Lowe approximating to him—until he went to the House of Lords as Viscount Goschen in 1900. Goschen was not a man who could ever have had a large following in the House, and although he might be respected and at times admired chiefly for his courage—he could never have gained any widespread support in the constituencies. Interest in him centres chiefly in his relations to political parties, and especially in his part in the recurring party crises between 1866 and 1903. He was elected for the City of London in 1863 as a Whig. He has the distinction of being the last Liberal or Whig returned by the City. After the term Whig ceased to be generally used in electioneering literature and in the poll books he described himself as a moderate Liberal. This was where he placed himself until the great split in the Liberal party over Gladstone's home rule bill in 1886. Then he became a Liberal-Unionist, and was energetic and persistent in his efforts to defeat Gladstone's bill, and equally active in organizing the Liberal-Unionists as a party distinct from the Liberals and anxious for a while to be distinct from the Conservatives.

Goschen failed of election at the general appeal to the constituencies which followed the defeat of the home rule bill in 1886. He failed again when after the retirement of Churchill from the Salisbury cabinet at the end of 1887 he became Chancellor of the Exchequer, and was the first of the Liberal-Unionists to go into a Conservative administration; and finally in 1888 he was elected as a Conservative for the Hanover Square division of Westminster. Thus after being of the House of Commons from 1863 to 1886 as a Whig or moderate

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Liberal, he arrived at the point from which he should have started—for except on such questions as the ballot, church rates and religious tests at Oxford and Cambridge, Goschen was a Tory of the 1784–1832 type. He was of that type of Toryism that developed and exalted the superior person; that contemplated the ruin of England when any constitutional change was mooted; and that distrusted and dreaded any approximation to democracy.

No great measure stands to Goschen's credit except the conversion of the national debt in 1888; for he was temperamentally incapable of associating himself with what would today be described as political progress, and he had little sympathy and no touch with the people not of his class. It has needed much skill, great insight, and intimate knowledge of English politics since 1863—especially since 1884—to make the biography of such a man of permanent interest. But Mr. Elliot had all these qualifications, and his two volumes must take and long retain high rank among English political biography, not because there was much about Goschen that will attract readers, but because of the fulness with which Mr. Elliot writes the history of political parties in the last half of the nineteenth century. Goschen, acting in this part of his life with the Whigs, in the next with the Liberal-Unionists, and winding up as a Conservative, forms an attractive subject for a biographer keen on party history, and equipped to disentangle and make understood the party complications of the period from 1884 to 1903. Mr. Elliot was of the Liberal-Unionists of 1886. With the biography of Goschen as his allotted task, it would seem fortunate that he went with Hartington, Goschen, Chamberlain and Bright; for he has furnished a better, more detailed, and more complete history of the Liberal-Unionists than exists of either the Conservative or the Liberal party, and has placed at the service of students of British politics a permanently valuable contribution to the history of parties from the end of Palmerston's last administration to the division within the Unionist party due to Chamberlain's conversion to protection in 1903.

The Mother of Parliaments. By HARRY GRAHAM. (Boston: Little, Brown & Co., 1911. Pp. xii, 314.)

Mr. Harry Graham's home for fifteen years has been in St. Stephen's Palace. To write the "Mother of Parliaments" has evidently been a

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congenial task; and there are some internal evidences which suggest that he has proceeded with it in a leisurely way. Much work has been bestowed upon it, but without bringing it into the class of scholarly books, or warranting it being grouped among books which add something new to the subject of which they treat. It is none the less a distinctly interesting and serviceable addition to the literature of the British Parliament. It is interesting by reason of its anecdotal and personal sides, and by reason also of Mr Graham's style, which is characterized by a quiet humor which, save in Jenning's "Anecdotal History of the English Parliament," is lacking in books concerned with either the House of Lords or the House of Commons. Mr. Graham's volume is likely to be serviceable chiefly because it is the only book of recent years treating of both the Houses of Parliament, and because it contains a good sketch of the development of the Cabinet, and a really admirable history of the old and new Palaces of St. Stephen's. Here Mr. Graham, as might be expected from the environment in which he has lived so long, is at his best.

Authorities are freely cited for statements and for many of the stories of Parliament life which Mr. Graham has interwoven in his book. Proximity to the Journals of both Houses might have suggested a test of some of these stories from the wide range of biography on which Mr. Graham has drawn. But in that case the "Mother of Parliaments" might have lost some of its human interest, and some of its readableness. All the same the Sheridan incident detailed on page 208 would have read just as well if the date had been given correctly. There is no excuse for attributing an Irish bull to Sheridan in 1840 in view of the fact that Sheridan died in 1816. But here and there Mr. Graham is a little slipshod as to dates, although his aim was a "book sufficiently instructive to appeal to the student, and yet not so technical as to alarm or repel the general reader."

The Imperial Administrative System in the Ninth Century, with a Revised Text of the Kletorologion of Philotheos. By J. B. Bury. (British Academy, Supplemental Papers I. Oxford: University Press, 1911. Pp. 179.)

The administrative institutions of the Roman empire as organized by Diocletian and Constantine, and kept, with some modifications, down to the death of Justinian are known from sources ample enough.

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But for 300 years after Justinian's death there are no documents which bear directly upon the administrative service. About the middle of the ninth century a new series of sources begin, which show an administrative system quite different from that in Justinian's time. The most important document of this later series in the Kletorologion of Philotheos, compiled in the year 899 A. D. in the reign of Leo VI. This Kletorologion is a list of the officials written down by the lord high chamberlain (atriklines) of the court, and contains, besides the lists and the dignities of officials, and their insignia and order of precedence, long and minute directions for the court banquets. Professor Bury recognizes the difficulty of attempting to build up the history of centuries of administrative institutions from bare lists of officials, and therefore has confined his investigation to the "determination of the functions of the officials, and to the origin of the offices and of the orders of rank." He seems to prove his contention that the Byzantine coördinate administration of the ninth century is a gradual development, and not a revolution, from the earlier system, which propped up its structure of a divine hierarchy by a system of subordinate administration. In the investigation of the eighteen different grades of official dignity, from the silentiarius with his golden staff to the Caesar with a crown without a cross, Professor Bury has hit upon a number of interesting and enlightening facts which throw light upon many things in the late Roman empire and in the middle ages, which have not been rightly understood hitherto. One of the most interesting is in connection with the study of the title Caesar. Mommsen (in Staatsrecht, 11^3, 1140) explains the title of Caesar as a promise of succession under the Principate. But Professor Bury shows that after Theodosius I it was the invariable practice of the emperor, if he had a son, to make him his colleague (Basileus and Augustus). After Maurice, the title Caesar was only conferred on persons who might, in certain events, succeed to the throne.

In addition to the investigation of the functions of officials and the conclusions got therefrom as to administrative institutions of the ninth century Byzantine empire, Professor Bury has also (pp. 131–179) reëdited most carefully the Greek text of the Kletorologion.

RALPH VAN DEMAN MAGOFFIN.

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The Native States of India. By WILLIAM LEE-WARNER. (New York and London: The Macmillan Company, 1910. Pp. xxii, 425.)

Sir William Lee-Warner's well known treatise, "The Protected Princes of India," has appeared in a new edition and under this title. The work is an indispensable one to anyone desiring an accurate knowledge of the complicated political status of the nearly seven hundred native states included within the Indian Empire of Great Britain. The exact place to be assigned these principalities in the various catalogues of political units, whether considered from the point of view of the international lawyer or of the constitutional jurist, is a problem difficult to solve. The author's formal definition of a native state is that it is "a political community, occupying a territory in India of defined boundaries, and subject to a common and responsible ruler who has actually enjoyed and exercised, as belonging to him in his own right duly recognized by the supreme authority of the British Government, any of the functions and attributes of internal sovereignty." "The indivisibility of sovereignty upon which Austin insists," he adds, "does not belong to the Indian system of sovereign States" (p. 31).

The tie which binds these States to Great Britain, it is justly declared, is not an international one. They have no real international life. Nor is the bond feudal in character, as held by Sir Lewis Tupper in his work "Our Indian Protectorate." Nor, finally, one is surprised to learn, is the tie to be described as a constitutional one, as argued, for example, by Westlake in his "Chapters in International Law." A political body which has neither an international nor a constitutional character is by most writers held to be an impossibility. And in truth our author does in fact return to the international field by holding that the Indian States, though not subject to international law, may find a status under its "shadow," and be described as semi-sovereignties. The reviewer is by no means satisfied with either the author's reasoning or his result; though the limitations of a review will not permit a statement of the argument. The exceptional value of the work to the political theorist is, however, certain.

Mr. Lee-Warner does not confine himself to an analysis only. He estimates values and discusses policies. The value and scope of the original work first published in 1894 are so well known, however, that

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a further account of this is not necessary. A renewed recognition of the merits of the treatise is sufficient.

Trichotomy in Roman Law. By HENRY GOUDY. (Oxford: Clarendon Press, 1910. 77 p.)

In this interesting little work the author develops the thesis that the predilection of Roman jurists for the number three in their legal definitions and classifications is traceable to a desire for artificial symmetry, and is neither logical nor fruitful of any practical result. Roman writers, including the jurists, were profoundly influenced by symbolic numbers in the external arrangement and composition of their work. Professor Goudy begins his illustration of this early symbolism by quoting from the Twelve Tables: "If a *paterfamilias* sells his son three times his *potestas* over the son shall end." He finds particularly strong support for his thesis in the texts and principles of the Institutes of Gaius and Justinian and cognate texts in the Rules of Ulpian and in the Digest. From these sources, he has selected nineteen specific illustrations of the Roman partiality for the tripartite classification. The following will illustrate the author's selections: "All law was either made by consent, or established by necessity or settled by custom." (Modestine in Lib. 1 *Reg.*, *Dig.* 1. 3, 40); "The subject-matter of private law relates either to persons, or to things or to actions." (Gai. 1, parag. 8; *Inst.* 1. 3 pr.); "Persons are divided into *liberi*, *servi*, and *libertini*" (Inst. 1. 5 pr.; Ulpian in Lib., *Institutionum Dig.* 1. 1, 4). He subjects these principles and definitions to a critical examination, and succeeds in showing that they are generally neither logical nor suitable to the treatment of the topics they severally represent.

Within the space of a few pages Professor Goudy tests his thesis in the Roman law of things and actions and finds it equally applicable. Cicero, Seneca and other writers are also drawn upon to bear witness to the truth of the author's theory. The frequent use of the traditional three the author attributes to a tendency of the Jurists (especially Ulpian), more or less conscious, to adopt symbolic tripartite divisions or to invent them. The tendency is largely traceable to the influence of the Stoic and other schools of philosophy.

In the course of the discussion, the author displays that profound

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knowledge of Roman law we might expect from the Regius Professor of Civil Law at Oxford.

While not detracting from the logical acumen and power of philosophical analysis of the Roman jurists, Professor Goudy nevertheless claims to have proved, successfully we think, that the classification and definition of legal doctrines were not their strong points. In their subservience to artificiality in these matters, they were "the children of their age."

The work is scholarly, yet most entertaining, a special merit not usually shared by books on Roman law.

EDWIN M. BORCHARD.

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RECENT GOVERNMENT PUBLICATIONS OF POLITICAL INTEREST

BY CARL HOOKSTADT

UNITED STATES[1]

Abrogation of the Russian Treaty. Report from the House Committee on Foreign Affairs [to accompany H. J. Res. 166]. 1911. 14p. 8°. *House. Committee on Foreign Affairs.* (H. rpt. 179.)

Alaska Coal Contracts. Hearings before the Committee on the Judiciary of the House of Representatives on House Resolution no. 217 (62d Congress) calling upon the Attorney General of the U. S. for certain information. pt. 1–3. 1911. 8°.

Anti-Trust Statute, Message of the President, Dec. 5, 1911. . . . 43p. 8°.

Arbitration Addresses of President Taft. 1911. 66p. 8°.

Bank Loans and Stock Speculation, by Jacob H. Hollander. 1911. 27p. 8°. *National Monetary Commission.* (61st Congress, S. doc. 589.)

Bureau of Labor, Bulletin no. 94–95, May–July, 1911. 2 nos. 8°.

no. 94. Fourth report of the Commissioner of labor on Hawaii.

no. 95. Industrial lead poisoning, with descriptions of lead processes in certain industries in Great Britain and the Western States of Europe, by Sir Thomas Oliver; white-lead industry in the United States, with an appendix on the lead-oxide industry, by Alice Hamilton; deaths from industrial lead poisoning (actually reported) in New York State in 1909 and 1910, by John B. Andrews; laws enacted during 1911 requiring the report of occupational diseases; decisions of courts affecting labor.

Civil Government in Alaska. Hearing before the Senate Committee on Territories in relation to S. 1647 (62d Congress), a bill to create a Legislative assembly in the territory of Alaska, to confer legislative power thereon, and for other purposes (in progress). 1911. 8°. *Senate. Committee on Territories.*

Congressional Directory (Official). 62d Congress, 2d session, 1st edition. Dec., 1911. xiv, 475p. 8°. *Congress. Joint Committee on Printing.* (S. doc. 113.)

Constitution and Its Makers. An address delivered before the Literary and historical association of North Carolina, at Raleigh, N. C., Nov. 28, 1911, by Henry Cabot Lodge. 1911. 25p. 8°. *Congress. Senate.* (S. doc. 122.)

Contempts of Court. Hearings before the Committee on the Judiciary of the House of Representatives, Dec. 7–11, 1911. 118p. 8°. *House. Committee on the Judiciary.*

Controller Bay. Views of the minority from the Committee on Expenditures in the Interior Dept. 1911. 8p. 8°. *House. Committee on Expenditures in the Interior Dept.* (H. rpt. 178, pt. 2.)

[1] All numbered documents refer to 62d Congress unless otherwise specified.

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Duties on Wool. Synopsis of the report of the Tariff board on Schedule K, relative to the duties on wool. 1911. 19p. 8°. *Congress. Senate.* (S. doc. 210.)

Employers' Liability and Workmen's Compensation Commission. Hearings before the . . . pursuant to public resolution no. 45, approved June 25, 1910. pt. 2–4. 1911–12. 8°.

pt. 1 (2 vols., S. doc. 90) noted in November issue of the *Review.*

Financial Condition of the Treasury, needed banking and currency reform and departmental questions, Message of the President on . . . communicated to Congress Dec. 21, 1911. 24p. 8°. (H. doc. 343.)

Foreign Relations, Message of the President of the United States on . . . 1911. 28p. 8°. (H. doc. 248.)

German Great Banks and their concentration in connection with the economic development of Germany, by Dr. J. Riesser. 1911. xxvi, 1042p. 8°. *National Monetary Commission.* (61st Cong., S. doc. 593.)

Hague and Geneva Conventions. 1911. 172p. 8°. *Navy dept.*

Geneva: Convention for the amelioration of the condition of the sick and wounded in armies in the field, 1906.

Hague:

III, Relative to the opening of hostilities, 1907.

IV, Respecting the laws and customs of war on land, 1907.

V, Respecting the rights and duties of neutral powers and persons in case of war on land, 1907.

VIII, Relative to the laying of automatic submarine contact mines, 1907.

IX, Concerning bombardment by naval forces in time of war, 1907.

X, For the adaptation to maritime war of the principles of the Geneva convention, 1907. For the exemption of hospital ships in time of war from the payment of all dues and taxes imposed for the benefit of the state, 1904.

XI, Relative to certain restrictions with regard to the exercise of the right of capture in maritime war, 1907.

XIII, Concerning the rights and duties of neutral powers in maritime war, 1907.

XIV. Prohibiting the discharge of projectiles and explosives from balloons, 1907. For the adaptation to maritime war of the principles of the Geneva convention of Aug. 22, 1864, 1899. Respecting the laws and customs of war on land, 1899.

The Hague conventions of 1907, I, The pacific settlement of international disputes, and II, The limitation of the employment of force for the collection debts, have been ratified by the United States, but are not published herein as their application does not devolve upon naval officers; VI, The status of enemy merchant ships on the outbreak of hostilities, and VII, Relative to the conversion of merchant ships into ships of war, have not been ratified and proclaimed by the United States and are not published; XII, For the creation of an International prize court, was ratified by the United States Senate, Feb. 15, 1911, but was not proclaimed by the President and is not published.

All the above specified conventions may, however, be found in the International law situations, U. S. Naval War College, 1908.

History of the Bank of England and its financial services to the state. Second ed., revised by Eugen von Philippovich. 1911. 297p. 8°. *National Monetary Commission.* (61st Cong., S. doc. 591.)

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Contents: pt. 1, The foundation of the bank of England.—pt. 2, The relations between the bank and the administration of the public debt, and of the public money during the 18th century.—pt. 3, The legal development of the relations between the bank and the administration of the public debt and public money.—pt. 4, The present position of the bank as the financial servant of the state. Appendices: 1, The statutory basis of the position of the bank of England in the English economic system.—2, The settlement of the National land bank.—3, The present forms of the exchequer bills, treasury bills, and exchequer bonds.—4, Average amount of the public deposits at the bank of England.— 5, Bank act, 1892.

Immigration Commission, Reports of . . . (in 42 vols.) 1911. 8°.

v. 1–2. Abstracts of reports of the Immigration commission, with conclusions and recommendations and views of the minority. (These volumes include the Commission's complete reports on immigration conditions in Hawaii, immigration and insanity, immigrants in charity hospitals, alien seamen and stowaways, contract labor and assisted immigration, the Greek padrone system in the United States, peonage; and abstracts of reports on the statistical review of immigration to the United States, 1820–1910, distribution of immigrants, 1850–1900, emigration conditions in Europe, dictionary of races and peoples, immigrants in manufacturing and mining, recent immigrants in agriculture, Japanese and other immigrant races in the Pacific Coast and Rocky Mountain States, immigrants in cities, occupations of first and second generations of immigrants in the United States, children of immigrants in schools, immigrants as charity seekers, immigrants and crime, steerage conditions, immigrant homes and aid societies, importation and harboring of women for immoral purposes, immigrant banks, fecundity of immigrant women, changes in bodily form of descendants of immigrants, federal immigration legislation, steerage legislation, 1819–1908, immigration situation in other countries (Canada, Australia, New Zealand, Argentina, Brazil); also the following appendixes—schedule forms used by the immigration commission, United States immigration laws and regulations, treaty, laws and regulations governing the admission of the Chinese to the United States, U. S. naturalization laws and regulations.) (61st Cong., S. doc. 747.)

Industrial Education. 25th annual report of the Commissioner of labor, 1910. 1911. 822p. 8°. *Dept. of Commerce and Labor. Bureau of Labor.* (61st Cong., H. doc. 1505.)

Contents: 1, Introduction.—2, Philanthropic industrial schools.—3, Public industrial schools.—4, Apprenticeship schools.—5, Coöperative industrial schools.—6, Evening industrial schools.—7, Textile schools.—8, Girls' industrial schools.—9, Negro industrial schools.—10, Indian industrial schools.—11, Correspondence schools.—12, Y. M. C. A. schools.—13, Commissions on Industrial education.—14, Attitude and activities of organizations.—15, Vocational guidance.—16, Laws relating to industrial education.—17, Selected bibliography on industrial education.—18, General tables.

International Institute of Agriculture, Report of the U. S. delegation to the general assembly . . . 1911. 24p. 8°. (H. doc. 303.)

Interstate Commerce Commission Cases in the federal courts, 1887–1911. 1911. 126p. 8°. *Interstate Commerce Commission. Index Division.*

Complete list of cases reviewed by federal courts, with brief of points decided,

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dates of decision, commissioner or judge delivering opinion, docket and opinion numbers, and such other data as will enable one readily to locate the opinion desired.

Investigation of the American Sugar Refining Co. and others, Hearings held before the special committee on . . . (in progress.) v. 1–3. 3080p. 8°. *House. Special Committee on the Investigation of the American Sugar Refining Co.*

Isthmian Canal Commission, Annual report . . . for the fiscal year ending June 30, 1911. 1911. xxii, 581p. 8°. *Isthmian Canal Commission.* (H. doc. 162.)

Appendixes: N, Report of the head of the dept. of civil administration.—O, Report of the head of the dept. of law.—T, Treaties and acts of Congress relating to the Isthmian Canal (also published separately, *v. infra*).

Monetary Legislation. Suggested plan for . . . submitted to the National monetary commission, by Hon. Nelson W. Aldrich. Rev. ed., Oct., 1911. 24p. 8°. *National Monetary Commission.*

Opinions and Briefs of the Solicitor of the Treasury. Digest of . . . 1880–1910. Prepared by R. J. Mawhinney. 1911. 510p. 8°. *Solicitor of the Treasury.*

Postmaster General. Letter from the . . . submitting a report giving the results of the inquiry as to the operation, receipts and expenditures of railroad companies transporting the mails, and recommending legislation on the subject. 1911. v, 306p. 4°. (H. doc. 105.)

Railroad Securities Commission. Report of the . . . and letter of the President transmitting report to Congress. 1911. 44p. 8°. (H. doc. 256.)

Senator from Illinois. Proceedings before a committee of the United States Senate . . . directed, under a resolution of the Senate of June 7, 1911, to investigate whether corrupt methods and practices were employed in the election of William Lorimer as a Senator of the United States from the state of Illinois. (in progress.) 1911. pt. 1–18. 7330p. 8°.

Senator from Wisconsin. Hearings before a subcommittee of the Committee on Privileges and Elections, United States Senate, 62d Congress, under the resolution (S. res. 136) directing the committee . . . to investigate whether corrupt practices and methods were used or employed in the election of Isaac Stephenson as a Senator of the United States from the state of Wisconsin. 2 v. 1911. 8°. *Senate. Committee on Privileges and Elections.*

Some Aspects of the Constitution. An address by Joseph C. Clayton, delivered before the New York society of the Order of Founders and Patriots of America, New York, Dec. 14, 1910. 1911. 19p. 8°. *Congress. Senate.* (S. doc. 143.)

Steel Industry. Report of the Commissioner of Corporations on . . . pt. 1. 1911. xxiv, 422p. 8°. *Dept. of Commerce and Labor. Bureau of Corporations.*

pt. 1. Organization, investment, profits, and position of the United States Steel Corporation. July 1, 1911.

Tobacco Industry. Report of the Commissioner of Corporations on . . . pt. 2. 1911. xxi, 343p. 8°. *Dept. of Commerce and Labor. Bureau of Corporations.*

pt. 2. Capitalization, investment and earnings. Sept. 25, 1911.

pt. 1. Position of the tobacco combination in the industry (pub. Feb. 25, 1909).

Treaty of 1832 between the United States and Russia. Message from the President transmitting copy of a notice forwarded by the Secretary of State to the American

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Ambassador at St. Petersburg relating to the termination of . . . 1911. 2p. 8°. *State dept.* (S. doc. 161.)

Treaty of 1832 between the United States and Russia, Termination of. Hearing before the Committee on Foreign Affairs of the House of Representatives, Dec. 11, 1911. Rev. ed. 336p. 8°. *House. Committee on Foreign Affairs.*

Appendices contain diplomatic correspondence and various documents relating to the treaty.

Treaties and Acts of Congress relating to the Isthmian Canal. 1911. p. 543–581. 8°. *Isthmian Canal Commission.*

Reprinted from the annual report of the Isthmian Canal commission, *v. supra.*

Trusts in Foreign Countries. Laws and references concerning industrial combinations in Australia, Canada, New Zealand, and Continental Europe. 1911. 132p. 8°. *Senate. Committee on Interstate Commerce.*

Women and Child Wage-Earners in the United States. Report on condition of . . . (report to consist of 19 vols.) 1911. *Dept. of Commerce and Labor. Bureau of Labor.* (61 Cong., S. doc. 645.)

v. 10. History of women in trade unions, by John B. Andrews and W. D. P. Bliss.

v. 12. Employment of women in laundries.

Workmen's Insurance and Compensation Systems in Europe, v. 2. 24th annual report of the Commissioner of Labor, 1909. 1911. xi, 1495–2749p. 8°. *Dept. of Commerce and Labor. Bureau of Labor.* (H. doc. 132.)

v. 2. Great Britian, Italy, Norway, Russia, Spain, Sweden. (Appendix: Laws relating to compensation for industrial accidents in foreign countries.)

ARIZONA

Minutes of the Constitutional Convention of the territory of Arizona; session begun the 10th day of October, 1910, Phoenix, Ariz. 1911. 450p. 8°.

CALIFORNIA

Report of Leading Railroad and Public Service Commissions, by Max Thelen, attorney for Railroad commission. Sacramento, 1911. vi, 98p. 8°. *Railroad Commission.*

Contains powers and workings of commissions, steps taken to secure physical valuation of the properties, proceedings in the matter of establishing express and other rates, office organization, and the litigation in which they may be involved, of the following states: Georgia, Maryland, Massachusetts, Minnesota, Nebraska, New York, Oregon, Oklahoma, Texas, Washington, Wisconsin.

Proposed Amendments to the Constitution of the state of California, with legislative reasons for and against adoption thereof, to be voted upon at a special election to be held Oct. 10, 1911. . . . by Frank C. Jordan, secretary of state. 2 l. fol.

KANSAS

Kansas Railroad and Public Utilities Law as it concerns the Public utilities commission. Comp. by John Marshall, attorney for the commission . . . July 1,1911. Topeka, 1911. 183p. 8°. *Public Utilities Commission.*

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MASSACHUSETTS

Commission to Investigate Employment Offices. Report . . . May, 1911. Boston, 1911. 130p. 8°.

MICHIGAN

Commission of Inquiry into Taxation. Preliminary report . . . 1911. Lansing, 1911. 37p. 8°.

Inequalities of present system and conditions needing correction.—Separation of state and local revenues.—The "corporate excess" tax and its equivalent in other states.

NEVADA

The Election Laws. Comp. by George Brodigan, secretary of state. Carson City, 1911. 94p. 8°.

NEW YORK

Public Service Commission. Before a joint committee of the Legislature, Aug., 1911, in the matter of the hearing upon proposed charter for the city of New York, Assembly bill nos. 1493, 2596, introductory no. 1261. Memorandum for the Public service commission for the first district. 1911. 21p. 4°.

Contains a comparative statement of city charter legislation with reference to the vesting of a limited or an absolute veto power in the mayor.

OHIO

Ohio Constitutional Conventions. Law providing for fourth constitutional convention. By C. B. Galbreath, state librarian. Columbus, 1911. 13p. 8°. *State Library. Legislative reference dept.*

PHILIPPINE ISLANDS

Bureau of Labor. First annual report . . . fiscal year, 1910. Manila, 1911. 174p. 8°.

Contents: Organization of the bureau.—complaints and claims of laborers.—Labor and accidents.—Free employment agencies.—Strikes.—Statistics of wages on provincial public works.—Interinsular emigration of laborers.—Statistics of laborers in Manila in the fiscal year 1909.—Statistics regarding the wages of laborers in the provinces and the articles of prime necessity.—Recommendations.

WISCONSIN

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